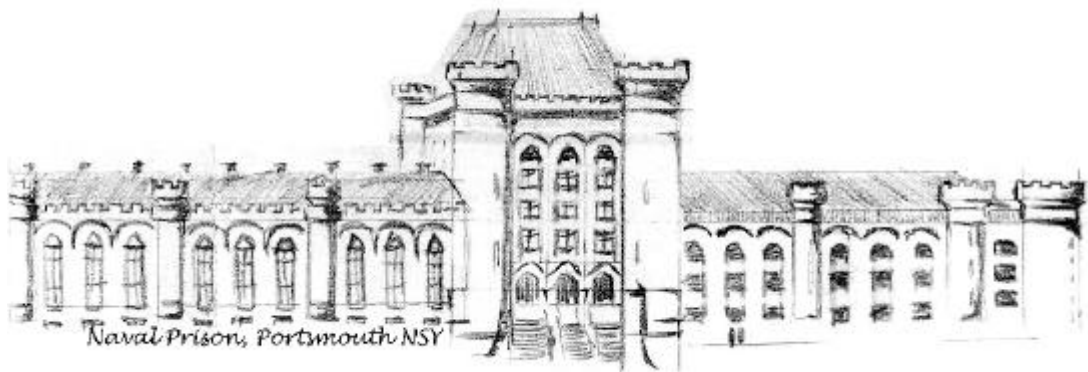
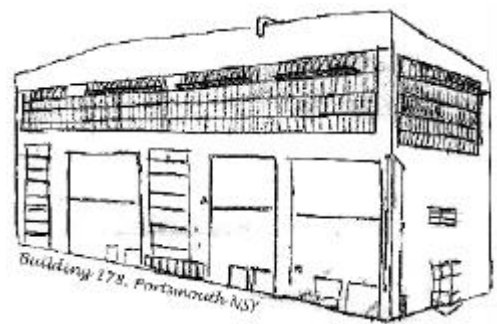
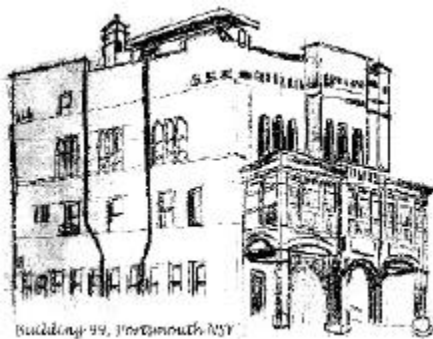




Management of Naval Sea Systems Command (NAVSEA) Non-Excess Underutilized Facilities and Capacity:

Guidelines for Outleasing at NAVSEA Facilities and Lessons Learned from Portsmouth Naval Shipyard, Kittery, Maine



Prepared by
NAVSEA Office of Environmental Protection,
Occupational Safety and Health
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**MANAGEMENT OF NAVAL SEA SYSTEMS COMMAND (NAVSEA) NON-EXCESS
UNDERUTILIZED FACILITIES AND CAPACITY:
GUIDELINES FOR OUTLEASING AT NAVSEA FACILITIES AND LESSONS LEARNED FROM
PORTSMOUTH NAVAL SHIPYARD, KITTERY, MAINE**

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INTRODUCTION

This guide describes the process for outleasing non-excess underutilized real property at Naval Sea Systems Command (NAVSEA) field activities, and passes on lessons learned based on the first successful outlease at Portsmouth Naval Shipyard (PNS), Kittery, Maine. It is not intended to establish policy on outleasing. The purpose of this document is to assist other NAVSEA activities with planning and implementing outlease initiatives for non-excess, underutilized property under their cognizance, and to document the NAVSEA Headquarters process for outleasing. Outleasing falls under the purview of outgranting, and the two terms are used interchangeably in this document. The term “outgrant” encompasses the lease, license, use agreement, or service contracts that may be applied to allow use of Navy real property by private and governmental entities. It is anticipated that this guide will provide assistance for other outgranting initiatives in addition to outleasing. The content of this document was compiled from interviews of key personnel at NAVSEA Headquarters, Naval Facilities Engineering Command (NAVFAC), and PNS who were involved in the PNS outleasing process. The guide is based on the PNS action and all steps are not necessarily applicable to all other NAVSEA activities.

The impetus behind outleasing is the Navy’s need to reduce the cost of maintaining assets while preserving current mission readiness and support capabilities. Several laws, regulations, and policies mandate requirements that must be complied with when outleasing non-excess, underutilized military facilities. A complete listing of these references, along with brief descriptions, is located in Appendix A. Since some form of National Environmental Policy Act (NEPA) documentation will be required for each outleasing action, NAVSEA is currently drafting a programmatic environmental assessment (EA) that proposes a change to the management of NAVSEA non-excess, underutilized facilities. This document pertains to the overall action of NAVSEA outleasing projects; activities will still be required to complete NEPA documentation for their specific facilities. The proposed action consists of an improved framework of practices and procedures to promote and encourage outleasing of NAVSEA non-excess, underutilized facilities. Such practices and procedures include applying formal decision criteria to guide development of outlease plans, using standardized tools (e.g., model leases and checklists), coordinating development of the Environmental Baseline Survey (EBS) and EA, and implementing compliance monitoring systems to mitigate potential Navy risks. Contact information for obtaining a copy of the Programmatic EA for Management of NAVSEA Non-Excess Underutilized Facilities and Capacity is included in Appendix A.

The outleasing initiative at PNS was the first time the Navy considered leasing industrial property to a non-Federal entity at a facility the Navy still utilized. The idea generated a great deal of interest due to its scope and novelty. The initiative began with a request from a private firm to use PNS’s covered building ways. Concurrently, the Commander of PNS was searching for ways to reduce the overhead costs of maintaining the shipyard’s underutilized facilities that the Navy could not designate as excess. A team was formed that included representatives from various NAVSEA Headquarters offices and shipyard departments, and real estate staff at NAVFAC. The team weighed the potential benefits and cost of the proposal, and eventually decided to pursue the idea of outleasing.

PNS identified the following key advantages to outleasing underutilized property:

- Defrays repair and maintenance costs associated with underutilized property.
- Facilitates rehabilitation of buildings that are a liability to the Navy (turning them into assets).
- Reduces the shipyard's man-day rate, making it more competitive for obtaining work.
- Helps retain shipyard-type jobs.
- Provides a catalyst for organizational, facility, and logistical consolidation that improves the overall efficiency of the shipyard.
- Maintains assets vital to the Navy's long term mission at a reduced cost to the taxpayer.
- Provides the Navy with industrial surge capacity in time of national emergency.
- Gives private industry access to secure property with unique attributes (e.g., railroad and waterfront access, or state of the art production/shop equipment on a shared basis).
- Stimulates the local job market and brings in additional tax revenue to the community.

However, for outleasing to be successful, several issues must be addressed through an organized, detailed approach. Some of the essential issues within the outleasing process include:

- Management approval from NAVSEA, Office of the Chief of Naval Operations (OPNAV), Assistant Secretary of the Navy (ASN) Installations & Environment (I&E) and/or Research, Development & Acquisition (RD&A), Deputy Assistant Secretary of the Navy (DASN) Installation & Facilities (I&F), as appropriate, and notification to Congress, if necessary.
- Dedication at the activity head level to making outleasing a success.
- Acceptance of the concept by shipyard employees, union managers, and local politicians.
- Completion of a cost/benefit analysis to ensure outleasing is economical.
- Completion of an effective EBS and Finding of Suitability to Lease (FOSL).
- Completion of NEPA documentation to assess the potential environmental impacts of outleasing.
- Determination of fair market values for outleased and shared facilities.
- Establishment of proper security requirements and boundaries.
- Decision on the level of support for fire protection, emergency medical coverage, and parking.

Dedication at the activity head level is essential, as is a positive attitude from all involved, otherwise the outleasing process may be considered too difficult. PNS personnel found that none of the obstacles encountered were insurmountable and that even the most difficult issues could be resolved.

It is important to emphasize that outleasing **DOES NOT FOLLOW** the Base Realignment and Closure (BRAC) process. This fact should be conveyed and reiterated to the environmental regulators and prospective lessees, who tend to assume that the outleasing process is the same as the BRAC process. It is also important that the lessee's use of leased property be compatible with ongoing Navy missions. Each outleasing initiative will be unique, depending on which buildings or facilities are leased, the activity's mission, and the lessee's intended use of the property. All these factors will drive the specific requirements of the lease and will need to be assessed on a proposal-by-proposal basis.

Emphasize that although the process is similar to the BRAC process, it is not the same, and many of the BRAC rules do not apply.

Document Organization

The outleasing process has been divided into four sections in this document:

- I. Planning and Approval
- II. Assessment
- III. Solicitation and Negotiation
- IV. Execution and Administration

The steps to take during each of these phases are described in this guide and provided in numerical order; however, many of the steps can be performed simultaneously. An effort has been made to indicate where overlap can occur.

Several appendices are attached to this guide. Appendix A lists and provides a brief description of the statutes and Navy policy applicable to outleasing. Appendix B includes a list of outleasing guidance documents and reference material, along with point of contact (POC) information for obtaining these documents. Appendix C provides a list of the recommended actions for each activity department whose work is essential to an outleasing proposal. Appendix D contains a conceptual timeline for the outleasing process and a sample timeline from the second outleasing effort at PNS. Appendix E includes a sample plan for collecting and organizing environmental, facility, and historical information to assist in developing the EBS and NEPA documentation. Appendix F lists contact information for NAVSEA Headquarters and PNS offices that were involved with the outleasing process at PNS. Appendix G contains a glossary of terms commonly used in outleasing, along with a list of acronyms.

TOP 10 LESSONS LEARNED

- ✓ **Realize that dedication at the activity head level is essential**, as is a positive attitude from all involved, otherwise the outleasing process may be considered too difficult. PNS personnel found that none of the obstacles encountered were insurmountable and that even the most difficult issues could be resolved.
- ✓ **Designate a central POC** who will be in charge of the outleasing process from beginning to end. This person should be supported by an integrated outleasing team comprised of representatives from each department involved in the outleasing process. Bringing all departments into the process up front is important so that department heads can schedule their anticipated outleasing responsibilities into their normal workload. **Both the activity and Headquarters should have a central POC (Outleasing Team Leader) and outleasing team identified at the beginning of the outleasing process.**
- ✓ **Set up effective communication paths.** Facilitation of effective communication is critical. Clear mechanisms for communication among activity departments and between the activity and Headquarters should be established, as well as between NAVSEA and other Navy commands, and between the Navy and the regulators. The roles and responsibilities for each department/team member involved in the outleasing process should be identified and defined. It is also important that everyone is kept informed and speaks with the same voice. For example, the activity's Commanding Officer must communicate the same ideas to local government officials that NAVSEA Headquarters is communicating to the congressional delegates.
- ✓ **Educate prospective lessees** up front on what to anticipate with regard to the responsibilities and requirements associated with Federal outleasing. Leasing with the Navy is vastly different from private sector leasing. Many prospective lessees do not fully understand that certain restrictions may exist because of the co-location with ongoing Navy missions and are not aware of the additional responsibilities they may need to satisfy due to their location on a Federal facility.
- ✓ **Identify *all* property potentially suitable for outleasing** before submitting an Outlease Plan to NAVSEA Headquarters. This not only is cost-effective and efficient, but will assist with NEPA compliance. An activity should try to anticipate all of the potential needs of prospective lessees; for example, lessees might wish to utilize additional area around a building for parking or landscaping. Some properties may also be highly marketable because of their distinctive architecture or history (e.g. the former Naval Prison), or the unique service that they can provide (e.g., the covered building ways at PNS).
- ✓ **Conduct a cost/benefit analysis** for each candidate facility during the planning phase to ensure outleasing is economically viable for the activity. Consider all of the aspects associated with outleasing (e.g., additional security measures, environmental reports, etc.). Avoiding costs is the real benefit to outleasing and is just as important as generating income.

- ✓ **Start the EBS and NEPA documentation processes as soon as possible** because they may be some of the longest segments of the outleasing process. Activities may procure contractor support to develop the EBS and NEPA documentation; however, a significant amount of time may be required to gather and compile background and historical information, regardless of whether a contractor is retained. It may be more cost effective for activities to conduct their own background research since on-site staff will have more knowledge of where documents are located than will an outside contractor.
- ✓ **Ensure consistency of EBS and NEPA documentation.** Although the EBS and NEPA documents do not need to be completed by the same contractor, the information in the documents must be consistent. The Environmental and Safety Office should inform other activity departments of all information that needs to be provided to the contractor in order for the environmental documentation to be complete.
- ✓ **Communicate with Federal, state, and local environmental regulators** when outleasing real property, as necessary and appropriate. Activities should consider sending a letter to the EPA Regional office and state regulators notifying them of the Navy's intent to outlease. This is generally the appropriate course of action and can set the tone for cooperation in the effort. Activities may also want to communicate with the regulators periodically throughout the process, and keep them apprised of any significant issues. Activities may elect to invite the regulators for a site visit. A final copy of the EBS should be provided to the regulators for their information prior to finalization of the FOSL. Activities should expect that the regulators might raise some issues as a result of providing them the EBS. It is strongly recommended that activities do their best to resolve any issues raised by regulators.
- ✓ **Emphasize that although the process is similar to the BRAC process, it is not the same,** and many of the **BRAC rules do not apply.** For example, sampling and testing following the EBS is not required for leasing, as it is for BRAC. The outleasing EBS and FOSL are used to identify requirements that should be incorporated into the lease.

NAVSEA REAL PROPERTY OUTLEASING: LESSONS LEARNED

PHASE I. PLANNING AND APPROVAL

Step 1: Initiate New Outlease Action

Outleasing is primarily an activity initiative. Activities should assess whether property is excess or underutilized. Procedures for treatment of excess property, including sale, disposal, or demolition, are not covered in this guidance. Once an activity decides to pursue outleasing, an evaluation should be completed to assess the facility and capacity requirements needed to sustain mission and operational effectiveness. Criteria should be established to ensure that mission, operational, business (e.g., return on investment), existing local commercial capacity, and environmental (e.g., regulatory compliance and natural and cultural resource protection) issues are considered when deciding what to lease. To do this effectively, an integrated outleasing team, comprised of representatives from each department affected by the outleasing process, should be established to assist in the inventory and outlease planning (refer to Step 2).

Step 2: Establish Points of Contact

The Commanding Officer (CO) of the activity should assign overall responsibility for the outleasing initiative to one department (in the case of PNS, this was the Business and Strategic Planning Office). A central point of contact (POC) for the initiative should be identified within this department as soon as the decision is made to outlease, and the designee should remain the POC throughout the outleasing process. This person should be responsible for:

- Acting as team leader for the integrated outleasing team.
- Identifying and defining key roles and responsibilities for each team member/department.
- Staying up-to-date on the status of the outleasing initiative and the subtasks within the process.
- Distributing draft documents to the appropriate individuals/departments for review.
- Facilitating communication between departments at the activity, and between the activity and NAVSEA Headquarters, NAVFAC, potential lessees, the regulators, and the media.
- Coordinating site visits for potential lessees, regulators, Headquarters, etc.

The activity and Headquarters should have a central POC (Outleasing Team Leader) and outleasing team identified at the beginning of the outleasing process. The outleasing team should be comprised of representatives from each department involved in the outleasing process.

It does not matter which office is selected to lead the outleasing initiative. The most important factor to consider is which department can commit the time to see the process through to completion.

An integrated outleasing team should also be established early in the process to assist in identifying appropriate properties to outlease. In addition, bringing the outleasing team together at the beginning of the process enables POCs to plan for the anticipated tasking and reduces the potential for departments being caught off-guard with unexpected work. An effective outleasing team consists of representatives from the following functions, as applicable:

- Business Office
- Facilities & Maintenance (or Public Works) Department
- Office of Legal Counsel
- Public Affairs Office
- Environmental & Safety Office (including the Cultural Resources Program)
- Radiological Controls Office (Nuclear Capable Shipyard)
- Security & Law Enforcement
- Fire Protection

Each representative or department should be assigned specific roles and responsibilities by the central POC. Based on the outleasing experience at PNS, suggested roles and responsibilities for each activity department are summarized in Appendix C.

Step 3: Communicate Intent to Outlease

Notify NAVSEA

Once an activity decides internally to pursue outleasing, this intent should be communicated to NAVSEA Headquarters. The NAVSEA Installation and Equipment Office (SEA 04XI), which is responsible for managing NAVSEA's real property, is the appropriate office to contact for outleasing. NAVSEA Headquarters will designate a POC and assemble an integrated outleasing team to assist the activity with implementing its outleasing initiative. The NAVSEA Headquarters outleasing team typically consists of representatives from the Installation and Equipment Office, Office of Legal Counsel, Contracts Program Office, Office of Security and Law Enforcement, Office of Congressional and Public Affairs, Office of Environmental Protection, Occupational Safety and Health, and the Naval Nuclear Propulsion Directorate,

if applicable. Representatives from these offices will communicate and coordinate directly with their counterparts at the activity, as well as be part of the integrated outleasing team.

Effective communication among activity departments and between the activity and Headquarters is critical for the success of an outleasing initiative. The roles and responsibilities for each department/team member involved in the outleasing process should be identified and defined. Clear communication between NAVSEA and other Navy commands, and between the Navy and the regulators is also important.

Early in the outleasing process, an **on-site** "kick-off" meeting should be held with Headquarters and activity personnel. This will enable Headquarters personnel to become familiar with the condition of the candidate buildings and facilities and the reasonableness of offering them for lease. In addition, the meeting can also promote team building between Headquarters and the activity.

During this meeting, a conceptual timeline for the outleasing should be developed to avoid short-suspense deadlines. A conceptual timeline for the PNS outleasing experience is provided in Appendix D as a reference.

Environmental personnel from the activity and NAVSEA Headquarters should perform a walk-through survey of all candidate buildings to identify any potential environmental issues. Environmental regulators will likely perform a site visit, and identifying and addressing issues in advance of the regulators may avert potential delays in the outleasing process.

Implementation of weekly meetings or electronic reports is recommended to keep all POCs up to date on the status of the outleasing process. Care should also be taken to ensure that information is shared between Headquarters and the activity in a timely manner, and that Headquarters keeps the activity involved in all decisions that will impact the activity.

Public Affairs

The activity's Public Affairs Office (PAO) should be contacted as soon as the decision is made to lease, especially if there is potential for heightened public and/or congressional interest. At PNS, the PAO worked with the NAVSEA Office of Congressional and Public Affairs to develop a Public Affairs Plan. This plan outlined the goals, assumptions, execution, and reporting requirements for communicating with internal and external audiences. PNS also requested input from the NAVSEA Naval Nuclear Propulsion Directorate due to the shipyard's involvement with overhauling nuclear-powered submarines. The plan took approximately two months to complete, and included the appropriate Notifications to Congress, news releases, and scripted answers to potential media inquiries. PNS noted that it was important that everyone speak with the same voice, since the media approached both PNS and Headquarters with the same questions. Scripted response helped to ensure this and made fielding questions much easier. The PAO also consulted with other departments to assess the types of questions and concerns that might arise with certain buildings and property.

The PNS PAO coordinated with the NAVSEA Office of Congressional and Public Affairs and Department of Defense (DoD) Office of Legislative Affairs (OLA) to maintain communication with congressional delegates from Maine and New Hampshire. In addition, PNS found it beneficial to hold seminars for its employees in order to explain the purpose and rationale for outleasing, which was presented in the context of "exploring new avenues for cost effective ways to do business." PNS felt this was important because outleasing was a completely new concept that would impact all employees. Nearly 2,500 employees attended these seminars, demonstrating the interest outleasing generated among the shipyard employees. The CO of PNS also worked closely with the Shipyard Leadership Council to facilitate employee support.

Facilitating community support should also be considered. Although outleasing could bring more jobs and a greater tax base revenue to the community, there may be genuine concerns about such things as increased commuter traffic, increased transport of heavy materials on local roads, and over crowding in the school system. Activities may elect to initiate a community outreach program to facilitate understanding and support from the surrounding localities.

Step 4: Develop Inventories and a Conceptual Outlease Plan

The Outlease Plan should identify all property that may be suitable for leasing in the near term or at some future date. An attempt should be made to anticipate all the potential needs of prospective lessees, including additional areas for parking and landscaping. Some buildings may be highly marketable because of their distinctive architecture or history (e.g., the former Naval Prison) or the unique service that they can provide (e.g., the covered building ways at PNS). However, proposals may generate questions not considered in the original outleasing plan, and activities should be prepared to address unanticipated

issues as they arise. Also note that some buildings that appear suitable for outleasing might not be desirable to the private sector or appropriate for certain activities if they are in a remote area or a place that is not easily accessible (e.g. in the Controlled Industrial Area).

The Outlease Plan should include, at a minimum, the name of the activity, activity POC, and the following information for each property identified as a candidate for outleasing:

- Building or area identification.
- Square footage.
- Current use, and any prior uses, if different from the current use.
- Personal property to be furnished with each building or area.
- Type of facility (e.g., dry docks, warehouse, and administrative offices).
- Availability (e.g., continuous or dates available).
- Restrictions or conditions that should be placed in the lease.
- Whether an EBS/FOSL has been completed, or needs to be completed for each building or area.
- Any known environmental remediation sites, historical structures, archeological sites, sites important to Native Americans, wetlands, critical habitats, or sites located in a floodplain or coastal zone.

Identify *all* property potentially suitable for outleasing before submitting an Outlease Plan to NAVSEA Headquarters. This not only is cost-effective and efficient, but will assist with NEPA compliance. An activity should try to anticipate all of the potential needs of prospective lessees; for example, lessees might wish to utilize additional area around a building for parking or landscaping.

This information is also discussed in NAVSEA letter 7000 Ser 0713/269 dated 08 September 1997, "NAVSEA Outlease Program" (refer to Appendix B for information on how to obtain a copy this letter). Activities should include a site map (similar to a master planning document) and pictures to assist in visualizing the plan.

All properties that are candidates for outleasing (now or in the future) should be identified prior to submitting the approval request letter to NAVSEA. This practice not only is cost-effective and efficient, but will assist with NEPA compliance.

Bldg. 99: Built in 1891 as a hospital and converted in 1909 to bachelors' quarters and offices.



Outleasing Site Map - Portsmouth Naval Shipyard

Issues to Consider When Developing the Outlease Plan

One reason for establishing an outleasing team early in the process is to have individuals with expertise in specific areas participate in developing the Outlease Plan. These individuals can ensure that candidate properties are appropriate for lease and raise any red flags for potential areas of concern. Each activity will encounter its own set of issues and considerations. The following sections highlight significant issues that have been identified based on the outleasing experience at PNS.

Environment and Safety

Environmental issues are considered in detail during the development of the EBS (refer to Step #10); however, some issues should be considered early in the development of the Outlease Plan.

Environmental Remediation Sites: In general, installation restoration (IR) sites may not be attractive candidates for outleasing. However, an IR site can be leased with minimal risk if the lease includes appropriate provisions allowing access to the site for ongoing or future investigations or remedial work. Leasing buildings on property adjacent to an IR site also should not impede current or future remediation efforts at the IR site. Part of the EBS process is to evaluate the suitability of all property, including IR sites, for outleasing.

Ordnance/Explosives: Generally, buildings located within an ordnance/explosives arc cannot be leased. Activities should review NAVSEA OP 5, Volume 1, “Ammunition and Explosives Ashore Safety Regulations for Handling, Storing, Production, Renovation, and Shipping,” for explosives safety quantity-distance requirements and decontamination procedures relating to facilities leased for commercial non-explosives operations. Contact information for obtaining a copy of NAVSEA OP 5, Volume 1 is included in Appendix A. For property leased for commercial explosives operations, guidance for explosives safety quantity-distance and decontamination requirements should be requested from the Naval Ordnance Safety and Security Activity (N71). Refer to Appendix F for contact information.

In addition, activities should identify any ordnance (e.g., ammunition, such as dynamite magazines) located near the candidate buildings and determine if proper closure procedures need to be completed prior to outleasing.

Asbestos and Lead-Based Paint

The Navy is not required to survey for, sample/analyze, or abate asbestos containing materials (ACM) for the purpose of outleasing. Prospective lessees must be informed that ACM may be present in the buildings. Activities should provide any existing asbestos surveys to prospective lessees, and should ensure that prospective lessees are aware of their responsibilities with regard to ACM in leased buildings. Potential lessees should assume that buildings constructed before 1970 contain asbestos unless specifically identified as asbestos free. Lessees will be required to manage ACM in accordance with all applicable Federal, state, and local laws and regulations.

There are no legal requirements regarding lead-based paint for non-residential property transfer (or lease). However, buildings constructed before 1978 are subject to the disclosure requirements under Title X of the Housing and Community Development Act (42 USC 4822 et seq.) when they will be leased for residential purposes or used as child-occupied facilities. Prospective lessees should be informed that lead-based paint may be present in any Navy-controlled building constructed before 1978. It is the lessee’s responsibility to evaluate buildings and surrounding

soil for lead prior to any demolition, construction, or renovation. Lessees will be responsible for preventing lead exposure by properly managing and maintaining buildings or for abating any lead-based paint hazard that may pose a risk to human health, as required by applicable Federal, state, or local laws or regulations.

Specific language regarding asbestos and lead-based paint is provided in the FOSL and in the lease. These sections are based on available reports and information, site investigation findings, and intended use of the property.

Radiological Controls

For nuclear capable shipyards, the activity's Radiological Controls Office must evaluate whether the building is suitable for leasing and will not interfere with the shipyard's primary mission of overhauling nuclear capable warships. This evaluation will include a review of the shipyard's Historic Radiological Assessment (HRA) for each building proposed to be leased. Additional radiological surveys may be required to support leasing of the building.

Cultural and Historic Resources

Activities must comply with Section 106 of the National Historic Preservation Act (NHPA) if any property (e.g., structure, district, building, etc.) that is listed or eligible for listing on the National Register of Historic Places (historic structures) may be impacted by outleasing. An activity can consult its Cultural Resources Survey (CRS) or Integrated Cultural Resource Management Plan (ICRMP) to determine the status of candidate buildings for outleasing. NHPA requirements are triggered by both impacts on historic properties that are candidates for outleasing as well as impacts on nearby historic properties and historic districts. Federal agencies are required to consult with the State Historic Preservation Officer (SHPO) when an adverse impact on an historic property may occur. NHPA also mandates that Federal agencies minimize harm to National Historic Landmarks and Landmark Districts. The Advisory Council on Historic Preservation (ACHP) must be involved along with the SHPO when National Historic Landmarks may be affected. The consultation process is outlined in the activity's ICRMP and should begin as early in the process as possible to avoid delays. Activities should submit a letter to the SHPO and ACHP, as appropriate, to give notice of and explain the proposed outleasing action. Outleasing itself will likely be considered a "no adverse effect" under NHPA, although lessees will still be required to consult with the SHPO (and ACHP, as appropriate) if they plan to modify or alter any historic properties. Lessees should be aware of their responsibility to work with the Navy and SHPO to complete Section 106 consultations.

Facilities Reorganization and Planning

Ideally, activities will assess the use and management of buildings, equipment, and other property, and will have developed a consolidation plan to promote more efficient operations at their facility prior to outleasing. Consolidation is a good management practice, and outleasing is a possible

byproduct of consolidation. Suitable buildings for outleasing can be identified from this process. Activities are responsible for preparing the buildings for lease. Facilities should be clean and vacant of personnel and extraneous equipment, unless the facilities are being proposed for shared use.

If consolidation planning occurs simultaneously with the development of an outleasing plan, consolidation plans should be long term so that workers and equipment are not moved repeatedly. Collecting input from production heads and employees who work in the candidate buildings may be helpful in developing the consolidation plan. New places for the workers and equipment need to be identified, which can require a significant amount of negotiation.

Activities are responsible for all costs associated with moving facilities and equipment. Generally, the lessee cannot pay for the relocation and consolidation of equipment and facilities that the activity wishes to retain (which can be substantial), although there may be some exceptions. In such cases provisions should be included in the lease to address these exceptions. Potential delays from relocating personnel or equipment should also be addressed in the lease.

Security

The primary security concern is to prevent unauthorized access to sensitive technical information, such as Naval Nuclear Propulsion Information (NNPI) and other classified and business-sensitive materials. Security can be a major issue in the leasing process. An activity's Security Office should assess candidate buildings to ensure feasibility from a security standpoint.

For example, the outleasing initiative at PNS facilitated a major operational change in the way sensitive technical information was controlled. Because outleasing would give non-shipyard employees access to the shipyard, PNS needed to reevaluate its existing security mechanisms. As a result, PNS decided its security standards could best be maintained by shifting from an "open restricted" concept to a "security island" approach, in which all sensitive technical information was located and consolidated into buildings and areas within buildings designated as security islands. No foreign nationals or lessee parties are permitted in these areas. In addition to consolidating sensitive technical information, physical controls and production line processes were also reevaluated (especially since shared use of work spaces was being considered). New signs and equipment to "harden" the security islands (e.g., locks, new doors, and opaque window treatments) had to be purchased. One of the added benefits of the outleasing initiative was that it provided a good opportunity for "cleaning house," and enabled PNS to dispose of a lot of unnecessary copies and obsolete documents. The re-evaluation of information control was a shipyard-wide effort and required a paradigm shift by all shipyard employees. Since security is the responsibility of all PNS personnel, there is currently a massive drive to train employees on the security island approach.

NAVSEA's Office of Security and Law Enforcement assisted the PNS Security Office in developing a Security Island Plan. NAVSEA's Nuclear Propulsion Directorate was also consulted due to the shipyard's work with NNPI. It may be beneficial to establish a separate task team for managing

information control issues prior to leasing. The task team can include representatives from NAVSEA Headquarters, as well as other activities that have adopted a security island approach (e.g., PNS, Newport News Shipbuilding and Norfolk Naval Shipyard).



Example of facilities available for shared use at PNS (Building 300)

Shared Use of Equipment: There are special security issues that should be considered for shared use of facilities or equipment, especially when the lessee may have exclusive use of an area for specific periods of time (e.g., a work shift). Based on the experience at PNS, the idea of shared use needs to be thought through and engineered in great detail. Current procedures should be reviewed prior to the initiation of the outleasing process. Production engineers, shop workers, and security representatives should be consulted during the decision-making process. Some issues may include:

- Are there adequate controls for the equipment?
- Does equipment contain classified parts?
- Is it practical to remove pieces of material from the equipment for shared use? (For example, many pieces of material are very large and need to remain on the machines for several days until the product is complete.)
- Does the final product reveal sensitive information? If so, at what stage in development does the product reveal sensitive information?

Maintenance and repair of equipment should also be considered. From a logistics perspective, Navy personnel who use certain pieces of equipment know the specific requirements of the equipment, e.g., how it is maintained, when it needs to be cleaned, and what to do when it breaks down. Special instructions may need to be developed in order for the lessee to use this equipment. The activity should be responsible for the costs of repairs and routine maintenance. Pro-rated maintenance costs should be factored into the rate of rents charged to the lessee.

Cost/Benefit Analysis

A cost/benefit analysis determines whether leasing is economically viable for the activity. The ultimate goal is to reduce costs or receive a benefit from the lease (e.g., building improvements). Avoiding costs is the real benefit to leasing and is just as important as generating income.

The items included in the cost/benefit analysis should be 1) the elimination of routine maintenance requirements, 2) any rental income generated, 3) lessee-proposed upgrades that would enhance the long-term value of Navy

Conduct a cost/benefit analysis for each candidate facility during the planning phase to ensure outleasing is economically viable for the activity. Consider all aspects associated with outleasing (e.g., additional security measures, environmental reports, etc.). Avoiding costs is the real benefit to outleasing and is just as important as generating income.

property. NAVSEA has the discretion to approve lessee-proposed upgrades as in-kind consideration in lieu of rent. Note that property offered for lease will be provided in an “as is” condition. Further factors to consider include:

- Development of the Security Island Plan. Associated costs at PNS included: “hardening equipment” (e.g., locks, fencing), retraining employees, and creating badges, hard hats, and vehicle decals (lessee may reimburse the costs for these, if it is agreed to in the lease). Depending on the activity, a separate billet may be justified to coordinate security issues with the lessees/contractors.
- Development of the EBS/FOSL and EA/Finding of No Significant Impact (FONSI). In addition to the basic cost of developing the documents, the Environmental and Safety Office at PNS spent over 1,000 hours in 2 months for site visit coordination, pulling/ explaining documents, document review, issue resolution, and coordination with NAVFAC, NAVSEA Headquarters, the Ordnance and Explosive Safety Office (OESO), etc.
- Advertising the sources sought announcement and solicitation (Request for Proposals) in newspapers, magazines, and trade journals.
- NAVFAC screenings and appraisals.

The estimated cost for the contractual support associated with the first round of PNS outleasing included:

<u>Item Name</u>	<u>Estimated Cost</u>
EBS	\$190,000
NEPA	\$80,000
Appraisals	\$130,000
NAVFAC Support	\$27,000
Advertising	\$11,000
A/E Support for Shipyard	\$9,000
Photo Service	\$1,000
Total	\$450,000



**Former Naval Prison
at PNS**

These figures do not include security costs or staff time to implement each element and to administer the lease.

Note: The scope of the first round of outleasing at PNS included the leasing of seven buildings and three parcels of land; shared use with the Navy of five building; and shared use of two berths and two dry docks. The combined square footage of the buildings offered for lease was 516,393 square feet (47,972 square meters). The parcels of land totaled 14 acres (5.7 hectares). The two dry docks were 435 feet (133 meters) by 91 feet (28 meters), and 481 feet (147 meters) by 66 feet (20 meters); and the berthing space was 1840 feet (561 meters).

Step 5: Activity Forwards Conceptual Plans to NAVSEA

After the activity completes the conceptual Outlease Plan, it is sent to NAVSEA 04X for review and distribution to the Headquarters Outleasing Team. If appropriate, NAVSEA 04X will inform ASN (I&E) or (RD&A) of the proposed outleasing action.

Step 6: Field Activity Initiates Process for Developing the Environmental Baseline Survey

Development of the EBS is discussed in detail under the section, “Assessment” (Step #10), although a note is added here to emphasize the importance of starting the EBS as soon as possible since it is one of the longest segments in the outleasing process. Ideally, if the activity has the ability, it can reduce costs and save time by conducting a base-wide EBS. If it is not feasible to complete a base-wide survey, activities can begin to gather information and conduct background research for preparation of a partial EBS for specific properties prior to Headquarters’ approval of the Outlease Plan.

An activity may procure contractor support to develop the EBS. However, it may be more cost effective for activities to perform their own background work, since on-site staff would have greater knowledge

of where documents are located than would an outside contractor. Activity personnel will need to spend a significant amount of time gathering and compiling information even if a contractor is used to develop the EBS. The Environmental and Safety Office should inform other activity departments of the information that needs to be provided to the contractor in order for the environmental documentation to be complete.

Start the EBS and NEPA documentation processes as soon as possible because they may be some of the longest segments of the outleasing process. Activities may procure contractor support; however, it may be more cost effective for activities to gather and compile background and historical information since on-site staff will have more knowledge of where documents are located than will an outside contractor.

Reservist support can also be requested to review the environmental and historic records that the activity has identified. Reservists with knowledge in developing environmental documentation can be requested by contacting the activity’s Reserve Coordinator.

Step 7: NAVSEA Contacts NAVFAC for Property Screening

Subsequent to ASN notification, the appropriate NAVFAC Engineering Field Activity (EFA)/Engineering Field Division (EFD) office should be contacted to begin Federal and McKinney Act screenings to confirm availability of the candidate property for outleasing. This request can be made by the activity or by NAVSEA on behalf of the activity.

The McKinney Act applies to non-excess, underutilized and unutilized Navy real property that can be made available for use by the homeless for at least one year. Information regarding such property is reported to the Department of Housing and Urban Development (HUD) for screening. Under the Act, HUD has 30 days to determine whether the property is suitable for use to assist the homeless. This suitability/non-suitability determination is then published in the Federal Register. If the property is listed as unsuitable, outside parties have 20 days to object to the determination. If the property is listed as suitable, it must not be made available for any other purpose than homeless assistance for 60 days after publication of the Federal Register notice. If a written expression of interest in applying for use of the property for homeless assistance is received within the 60-day holding period, the property may not be made available for any other purpose until action is completed on the application submitted pursuant to the written expression of interest. Such an application is due within 90 days after receipt of the expression of interest. When the action for the property is complete NAVFAC notifies HUD to remove the property from the Federal Register.

Federal agency screening must also be completed to determine if non-excess, underutilized and unutilized Navy real property can be made available to a non-Navy Federal entity. The screening process takes approximately 30 days, although it does not take place until requested by the activity.

Step 8: Issue a Sources Sought Announcement (Optional)

NAVSEA may opt to issue a sources sought announcement to determine the level of interest in leasing specific property at the activity. Potential offerors may be requested to submit an “expression of interest” in response to the announcement. If enough interest is generated outleasing may proceed. Questions posed by the prospective lessees can be answered during an “offeror’s conference,” which is usually held during the Request for Proposals (RFP) process (refer to Step #13).

In general, NAVSEA Headquarters will place a copy of the announcement in the *Commerce Business Daily* (CBD) and will consider further announcements in other regional or national periodicals, as necessary. The activity is responsible for all costs associated with advertising the sources sought announcement. It is recommended that the response period to the announcement remain open for at least 30 days. Activities may also want to consider establishing a web site for outleasing. The web site developed for the second round of outleasing at PNS was cited as a significant improvement over the first round, especially since information could be provided to prospective lessees without the need to tour the facility. The Navy needs to be as innovative as possible in promoting outleasing. Targeting specific commercial/industrial sectors depending on the building capabilities is one suggested approach.

Step 9: NAVSEA Contacts NAVFAC for Property Appraisals

NAVSEA is required under Title 10, USC 2667 to receive fair market value for all property that is being leased. Appraisals must be completed by a real estate expert and can be coordinated through the appropriate NAVFAC EFA/EFD office. The request for property appraisals should be submitted around the time the intent to outlease announcement is issued. Activities are responsible for costs of the appraisals.

NAVSEA is also required under Title 10, USC 2662 to notify the Congressional Armed Services Committees if the annual fair market rental value will exceed \$200,000. Generally, the NAVSEA Contracts Program Office prepares the notification and submits it to NAVFAC. NAVFAC coordinates with the OLA to inform the appropriate congressional entities. A 30-day waiting period is required after notification for congressional response. If before the official appraisal is received, there appears to be a possibility that the annual fair market rental value will exceed \$200,000, it is recommended that the appropriate Notifications to Congress be submitted early in the process to avoid potential delays later in the process.

Appraisals of Equipment for Shared Use

NAVFAC can also appraise the fair market value of equipment for potential shared use. NAVFAC estimates are typically based solely on depreciation values. However, activities may choose to adjust these estimates to include maintenance history and replacement costs, which may increase the value of the original estimates. PNS created estimates on a per-shift basis based on the lessee paying depreciation and maintenance costs.



Example of facilities available for shared use at PNS (Building 300)

In general, completing property and equipment appraisals early in the process can save a significant amount of time. However, prior to leasing, activities should recheck buildings and equipment to ensure they are in the same condition (and equipment is in the same location), as they were during the initial appraisal.

PHASE II. ASSESSMENT

Step 10: Develop EBS/FOSL, and as Necessary, Prepare an EA and FONSI

Environmental Baseline Survey

Current Navy policy requires the preparation of an EBS and FOSL or Finding of Suitability to Transfer (FOST) prior to the lease, transfer, or sale of real property. The EBS is a factual representation of the environmental conditions of the property and may be used to identify areas that will require notice requirements and restrictive covenants in a lease. The information in the EBS supports the Navy's conclusion that the property is appropriate for lease. The EBS is based on all existing environmental information (e.g., surveys, maps, interviews, etc.) pertaining to the storage, release, treatment, and disposal of hazardous substances or petroleum products on the property. The EBS is similar to the environmental site assessments completed for commercial real estate transactions, but it may not be as detailed since sampling is not conducted as part of an EBS.

As mentioned previously in Step #6, work on the EBS should begin as soon as possible, because a significant amount of time may be required for its completion. The EBS should include all property identified as potential candidates for outleasing (i.e. all property identified in the Outlease Plan). In addition, try to anticipate all needs of the potential lessee, including additional areas for parking and landscaping. These actions will likely save time and reduce costs in the long run by avoiding the need to supplement the EBS.

The EBS should be comprehensive. It is important to provide a thorough description of the past use of each candidate property. This will facilitate development of the FOSL and may reduce potential questions from regulators. Guidance for completing an EBS can be found in the following documents:

- ASN (I&E) memo of 22 Dec 1993, DON Environmental Procedures Applicable to Non-BRAC Real Estate Action. (Refer to Enclosure 1 of Appendix A.)
- ASTM Standard Practice for Conducting Environmental Baseline Surveys, D 6008-96 (tailored to DoD requirements for transfer of property under the Community Environmental Response Facilitation Act, "CERFA").
- ASTM Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, E 1527-97 (developed for commercial real estate use to qualify users for the innocent landowner defense under the Comprehensive Environmental Response Compensation Liability Act, "CERCLA").
- Air Force Instruction 32-7066, 25 April 1994: Environmental Baseline Surveys in Real Estate Transactions.

Although these documents were intended primarily for property transactions/commercial use, the basic process is relevant to outleasing, and they may serve as guides for developing an EBS for outleasing. Information on how to receive copies of the ASTM Standards and Air Force Instructions is included in Appendix B.

If the EBS will include several properties, it may be helpful to develop a plan for gathering and compiling all background information, such as public works historical records, architecture and engineering drawings and contracts, environmental spill reports, CERCLA site assessment data, industrial hygiene reports,

archived historical reports, and photographs. Since PNS was interested in reviewing the shipyard in its entirety, and also wanted a way to keep the information that had been collected together and organized, PNS created a catalog for inventorying all research completed on the historical use of each building. The buildings were categorized based on the type of use (e.g., heavy industrial, storage, lodging, etc.), so that those with a confirmed history of non-industrial use could be eliminated from further review (e.g., living quarters), and others that needed to be examined in greater detail were highlighted. A similar inventory can be developed for underground storage tanks (USTs). An example of a plan for collecting information, based on the one used by PNS, is included in Appendix E.

A plan should also be developed for field inspections. Activity personnel working in the areas slated for inspection should be informed ahead of time of the site visits, and visits should be scheduled to minimize impact on normal work operations. Investigators should anticipate the type of data they will need to collect in the field, and should attempt to obtain all information in one site visit (e.g., tank dimensions). Keep in mind that current investigations may bring to light new information. Previous investigations can be reviewed, but because the scope of work for these may have been developed to satisfy a different set of requirements, previous studies may not contain data on all issues that need to be addressed in the EBS. An Environmental Baseline Survey Checklist for Visual/Physical Inspections is included in Appendix E for reference.

The EBS forms the basis for the FOSL. The FOSL is the process for determining whether the property is environmentally suitable for its intended use, and whether there should be any environmental restrictions on the use of the property. The FOSL is typically developed by the NAVFAC EFA/EFD with cognizance over the activity, and is provided to the activity for review. If the activity is amenable to the content in the FOSL, the FOSL is returned to NAVFAC for signature by the NAVFAC Commanding Officer or the NAVFAC EFA/EFD that drafted the document. The EBS and FOSL need to be reviewed by the NAVSEA Offices of Legal Counsel and Environmental Protection, Occupational Safety and Health, in addition to the activity's environmental and safety and legal offices, prior to finalization and signature of the FOSL by NAVFAC.

National Environmental Policy Act Review

NEPA analysis is also required for outleasing. NEPA mandates that Federal agencies consider the impacts of major actions on the environment. Reasonable alternatives to the proposed action that will avoid or minimize adverse environmental effects must also be identified. The level of NEPA documentation required is dependent on the potential for environmental impacts. Activities are responsible for initiating the

Although preparation of the EBS and NEPA documentation are separate processes (and do not need to be completed by the same contractor), they should be coordinated in order to minimize duplication of effort and inconsistencies between the two documents. The Environmental and Safety Office should inform other activity departments of all information that needs to be collected in order for the environmental documentation to be complete.

NEPA process, and may elect to procure contractor support to develop the required NEPA documentation. While it is not required that activities go through NAVFAC to obtain contractor support, NAVFAC does retain companies under contract that can provide all NEPA documents associated with outleasing. Activities will likely be required to complete a Categorical Exclusion or EA.

Development of the EA is separate from the development of the EBS. However, these processes should be coordinated in order to

minimize duplication of effort and inconsistencies between the two documents. It should be emphasized that in contrast to the EBS, which establishes current conditions, the EA assesses potential future environmental or socioeconomic impacts that may result from the proposed leasing actions. Thus, not all of the information contained in the EBS needs to be incorporated into the EA. NEPA review efforts can be sequenced to take advantage of information developed through the EBS process. For example, it may be possible to start consultation processes (e.g., NHPA Section 106 consultations) sooner by using information obtained for the EBS. If contractor support is procured, it is recommended that the same contractor be retained to develop both the EBS and the EA. This will facilitate better communication and coordination in developing the two documents.

The EA can be based on the assumption that the property will be used in a manner similar to the Navy's previous use of the property. In addition, further information on the proposed use of the property (e.g., number of additional people, potential hazardous material issues, etc.) can be obtained from the interest expressed in response to the sources sought announcement. A FONSI is issued by NAVSEA based on the satisfactory completion of the EA.

The Environmental and Safety Office and the Office of Legal Counsel at the activity should carefully review the NEPA documentation to ensure that all information is complete, accurate, and legally sufficient, particularly with regard to state laws and regulations. The NAVSEA Headquarters Office of Environmental Protection and Occupational Safety and Health and the Office of Legal Counsel should also review the NEPA documentation to ensure that the document is complete and legally sufficient.¹ All information (e.g., from interviews) should be substantiated with written documentation. This is especially important with the EA since it is a public document. Specialists within each department with expertise in specific program areas should be included in the document review process. In general, all departments involved with the outleasing initiative should review the EBS and EA, even if they are not directly part of the "chop" chain, since these documents are "owned" by the activity *ad infinitum*, and the information contained within could impact future actions. NAVSEA has the signature authority on FONSI for NAVSEA property.

Communicating with Regulators

ASN (I&E) memo of 22 Dec 1993 (Enclosure 1 of Appendix A) requires activities to communicate with

Activities are required to communicate with Federal, state, and local environmental regulators when outleasing real property, as necessary and appropriate. Activities should consider sending a letter to the EPA Regional office and state regulators notifying them of the Navy's intent to outlease, and may also want to communicate with the regulators periodically throughout the process.

Federal, state, and local regulators when outleasing real property, as necessary and appropriate. Early in the process, activities should consider sending a letter to the EPA Regional office and the state regulators notifying them of the Navy's intent to lease. This is generally the appropriate course of action and can set the tone for cooperation in the effort. Activities may also want to communicate with regulators periodically throughout the outleasing process and keep them apprised of any significant issues. This can benefit the activities by making them aware of any state regulations that need to be satisfied prior to leasing. Activities may want to invite regulators onsite to visit the facilities proposed for outleasing.

¹ Document review tips: Discuss or coordinate comments within an organization, as appropriate. Submit comments electronically; number comments sequentially to facilitate easy reference; establish individual electronic comment sheets so multiple reviewers can comment on documents simultaneously.

A final copy of the EBS should be provided to the regulators for information prior to finalization of the FOSL. The schedule should allow sufficient time for the regulators to express any concerns or ask questions. Let the regulators know which documents have the highest priority and should be reviewed first. Although regulators are not required to comment on the EBS, they may raise questions and provide comments. It is strongly recommended that activities attempt to resolve

A copy of the final EBS should be provided to the regulators for their information prior to finalization of the FOSL. Activities should expect that the regulators might raise some issues as a result of providing them the EBS. It is strongly recommended that activities do their best to resolve any issues raised by regulators.

any issues raised by regulators. Any unfulfilled regulatory requirements may need to be addressed before the lease is signed. Other issues raised by the regulators can be addressed in the FOSL. It is recommended that activities seek legal counsel if they cannot reach a resolution on issues with the regulators. In addition, activities should provide Headquarters with frequent feedback on any issues that may affect the outleasing schedule.

Step 11: Draft Language for the Lease

The NAVSEA Contracting Officer is responsible for drafting the lease agreement with assistance from other outleasing team members at Headquarters and the activity. Lease development can begin once the other leasing documents are near completion or finalized (e.g., property appraisals, security plans, EBS/FOSL, and EA/FONSI). *Note:* All documents will need to be finalized prior to the lease signing.

DoD currently maintains standard lease clauses and provisions for leasing at base closure locations. Although the model lease provisions were developed for the BRAC process, they are applicable to outleasing of real property at non-BRAC locations. A copy of the model lease provisions is included in Appendix A (Enclosure 2). These and other site-specific terms and conditions can be incorporated into the draft lease. Final lease provisions will be completed based on negotiations with prospective lessees.

Issues to Consider in Drafting Lease Provisions

Lease provisions need to address the lessee's rights, responsibilities, and obligations in the areas of operation and use, facility alterations, insurance/indemnification, liability, disputes, termination, subleasing, government priority use, and rent. Additional considerations for lease provisions are discussed below. Each department, at the activity level and at NAVSEA Headquarters, responsible for the specific areas indicated below should review the draft lease and RFP provisions to ensure all requirements have been addressed satisfactorily.

Environment and Safety

Provisions should be included in the lease to mandate lessee compliance with all Federal, state, and local environmental and occupational safety and health laws, regulations, and standards that are, or may become, applicable to the lessee's activities. Standard DoD environmental lease provisions should be incorporated into the terms and conditions to protect the Navy from lessee compliance issues or cleanup liabilities associated with lessee actions during outleasing or shared use. The Navy does not want to assume responsibility for any costs, expenses, fines, or penalties resulting from discharges, emissions, spills, storage or disposal violations as a result of the lessee's (or lessee's sublessee's, contractor's, guests', etc.) activities. A copy of the DoD environmental lease provisions is included in Enclosure 2 of Appendix A. If an activity plans to permit a third party to store, treat, or dispose of hazardous materials, NAVSEA is required under 10 USC

2692 to obtain prior approval from ASN (I&E). Since preparation of the environmental documents will likely continue through the solicitation, many details will have to be finalized during negotiations with the lessee.

Safety issues that limit the leasing availability or use of facilities should be documented and included in the lease. Lease provisions should also include language that will ensure lessee compliance with Occupational Safety and Health Administration (OSHA) regulations with respect to their employees. The Navy should not take responsibility for the lessee safety requirements.

Responsibilities for Permits

In general, NAVSEA policy requires lessees to obtain, at their own cost and expense, any environmental permits required for their operations under the lease. The Navy does not want to assume responsibility for the lessee compliance under Navy permits. However, some exceptions may be necessary. For example, interconnected nature of utilities might preclude separation of such things as wastewater discharges or air emissions for permitting purposes. In addition, state regulators may not allow separation of permits and may require the landowner (the Navy) to continue to hold the permit. In these situations the activity should ensure that the lessee understands they are subject to Navy requirements. An agreement between the lessee and the activity should be clearly defined in the lease and include the repercussions for non-compliance. The regulators should be consulted regarding the acceptable permitting options, and the Navy should carefully monitor permitting compliance to ensure there is no impact on Navy operations, even when the lessee is the permittee. The Navy may be held liable for lessee permit violations even when the lessee holds the permit. This is because the Navy retains ownership of the facilities and regulators might look to both owners and operators for purposes of environmental liability under certain environmental statutes.

Asbestos and Lead-Based Paint Responsibilities

If ACM and/or lead-based paint are known or suspected to exist in the buildings being outleased, a clause should be added to the lease indicating these materials may be present. The activity is not required to abate ACM or lead-based paint for outleasing purposes.



**Top: Staircase in the tower of the former Naval Prison - present day.
Above: Naval Prison at PNS circa 1930.**



Right: Cell blocks of the Naval Prison, circa 1930. The cell doors are considered historically significant items. A few representative samples were preserved while the rest were salvaged through the Naval Curator.

Proper management of asbestos and lead-based paint will be the contractual responsibility of the lessee under the lease.

Cultural and Historical Resources

Prospective lessees (and their contractors) may not be aware of government requirements regarding historical and cultural resources. The requirements under Section 106 of the National Historic Preservation Act (NHPA) apply to Federal agencies and not the private sector unless there is a Federal agency nexus (e.g., Federal license, permit, or lease). Mitigation measures under Section 106 may require expensive documentation of historic properties prior to renovation or demolition. The lessee must be made aware that they will be responsible for such documentation and that the documentation will be the property of the Government. The lessee will need to cooperate with the Navy on all Section 106 consultations relating to the outleasing. *Note:* The costs associated with consultations and associated mitigation measures may be significant—the lessee for the PNS fromer Naval Prison spent an estimated \$7,000 on NHPA compliance.

The activity should survey all candidate properties for outleasing and identify items of historical significance. As in the case of the former Naval Prison, more than one of the same items may be identified (e.g., cell doors, alarms, and equipment). The activity/Naval Curator may decide to preserve one or two samples of an item that are in the best condition, while the others are salvaged.

Salvage rights: Salvage rights should be clearly written into the lease, and it should be stated that all salvaged material is the property of the U.S. Government. The Naval Curator should be consulted for proper disposal methods of any unwanted materials of historical significance. The contractor can use conventional methods of disposal for non-historical items.

Security

The Security Office should review the draft lease/RFP language for content related to security (for which the office is ultimately responsible) that other departments may have included in the lease. Security issues will have to be negotiated with the lessee; however, activities should heighten the potential lessee's general awareness of the requirements, especially since these may influence the type of businesses that submit proposals. For example, some issues to raise include:

- The lessee's expected level of responsibility for security, e.g., ensuring all employees have badges, vehicle decals, etc., and who provides the funding for these.
- Access for the lessee's visitors, e.g., issuing visitor identification, escorting visitors, and check-in points, especially since customer perception is very important to private businesses.
- The lessee must agree that any contractor or sub-contractor they hire must adhere to the same restrictions agreed to by the primary lessee.
- Lessee employees may be required to evacuate along with activity employees if there is an alarm or drill.
- Photography is generally restricted on the activity or within the CIA; the lessee may need to coordinate with the activity's PAO and Security Office to take photographs and have them approved for release.

Note: All security instructions and plans need to be evaluated and updated prior to the solicitation for proposals. Prospective lessees should review the documents to know what the requirements are and how to address them in their proposals.

Equipment Located in Lessee-Occupied Space not Designated for Shared Use

Activities must remove all Navy material, supplies, processes, equipment, and excess Navy property or trash from the buildings to be leased on an exclusive-use basis. These buildings should be swept clean and secured prior to issuance of the lease solicitation. Activities should identify remaining underutilized large machinery located in these candidate buildings that they intend to lease with the buildings.

PHASE III. SOLICITATION AND NEGOTIATION

Step 12: NAVSEA Develops Solicitation (Request for Proposals) and Source Selection Plan

In parallel with drafting the lease provisions, the solicitation (i.e., RFP) package and source selection plan must be developed. The solicitation is site-specific and should include the terms and conditions that will appear in the lease. The solicitation (and lease) will typically stipulate that lessee use of the property be compatible with the Navy's previous use of the property and on-going Navy activities/mission, since the property is "non-excess," and could potentially be reclaimed by the Navy at any time to serve its previous use. At a minimum, the solicitation should:

- Identify the buildings and/or areas available for lease.
- Define how the property can/cannot be used.
- If possible, include a plan of the activity's infrastructure, including available utilities.
- Designate periods of time the property is available for lessee use.

The solicitation should also request from offerors: a completely filled out proposal package responding to the solicitation requests and questions. These requests and questions, and subsequent discussions, must provide the Navy proposal evaluation team with enough information to determine if an offeror is responsive, if the planned use of the leased property is acceptable, and if the offeror understands the lease requirements and has an acceptable plan to comply with them.

The source selection plan describes how the Navy will evaluate the proposals to ensure that all offerors are treated equally when deciding an award. The plan should be fair, clear, and defensible. This is especially important in the event that an award is protested. Information in the source selection plan can be placed in an "Information for Offerors" notice that is provided to the offerors. In general, providing offerors with as much information as possible will enable them to develop more complete proposals, and will facilitate negotiations when the lease is finalized.

Step 13: NAVSEA 02 Issues Solicitation

In general, NAVSEA Headquarters will advertise the proposed leasing action in the CBD, although the activity should also advertise in regional and perhaps national newspapers, trade magazines, etc., in order to extend the distribution of the solicitation to a wider audience. The PAO can also work with the local newspapers to run articles on the outleasing initiative. The activity is responsible for all costs associated with the advertisements. The window for bidding should be as wide as possible to promote a competitive solicitation. *Note:* During the first round of outleasing, PNS issued the RFP for 30 days; however, this period was extended to 60 days for the second round of outleasing.

Educating Potential Lessees

Activities are strongly encouraged to educate the potential offerors on all requirements up front. For example, PNS held a pre-proposal conference to give offerors an opportunity to ask questions about the RFP and to clarify issues (e.g., this is not a BRAC process; the

Educate prospective lessees up front on what to anticipate with regard to the responsibilities and requirements associated with Federal outleasing. Many prospective lessees do not fully understand that certain restrictions may exist because of the co-location with ongoing Navy missions and are not aware of the additional responsibilities they may need to satisfy due to their location on a Federal facility.

Navy must receive fair market value for the leased property). Some of the questions may generate amendments to the solicitation. In addition, tours of the buildings were available to all potential offerors. Keep in mind that coordinating site visits may be challenging depending on the number of interested parties who want to schedule visits for different buildings. During the second round of outleasing, NAVSEA established a web site for disseminating information on the available properties for lease.

Offerors are not always aware of the differences between leasing in the private sector and leasing with a government agency. Many offerors are familiar with the relatively simple “small business” type leases, and do not realize that certain restrictions may apply due to the property’s co-location with ongoing Navy missions and that additional steps are needed to satisfy the requirements for Federal facilities. Potentially interested parties need to be informed that their proposed use of the property must be compatible with the activity’s mission. For example, at PNS some intended uses (e.g., an aquarium, bed & breakfast, condominiums, and museum) were disqualified because they would have required open access to the public. Some companies might consider the extra security a bonus. This offeror education process can be facilitated by a bidder’s conference. Issues that offerors should be aware of are outlined in Step #11 and include security requirements and responsibilities, environmental permits, cultural and historic resource consultations, and the presence of asbestos and lead-based paint, etc.

Lease Competition

Navy policy (SECNAVINSTs 11011.43A and 11011.47) mandates that real property leases be competed unless there is only one available lessee or leasing to a selected lessee can be fully justified. A Determination & Findings (D&F), which states that the action is in the best interest of the U.S. Government, can be executed to justify a limited-competition leasing action.

For example, an activity may limit the RFP to the potential offerors that submitted an “expression of interest” in response to the sources sought announcement. Activities may limit lease competition for a variety of reasons, and the decision will need to be made on a case-by-case basis.

The D&F for sole source or limited competition leasing actions involving industrial property under NAVSEA cognizance requires approval by DASN (I&F). Approval for limited competition leasing actions for non-industrial real property resides with NAVFAC.

Step 14: Evaluate Proposals and Select Qualified Offerors for Award

The lease proposals must be evaluated in strict accordance with the solicitation, with specific attention to the source selection plan and “Information for Offerors” notice, since the plan and notice explicitly state how the proposals will be evaluated.

Proposals for the PNS solicitation were deemed “acceptable,” “susceptible to being acceptable,” and “unacceptable.” Offerors who submitted proposals that were “unacceptable” were notified and dropped from consideration. Offerors with proposals that were “susceptible to being acceptable” were given the opportunity to improve and resubmit their proposals (i.e., “best and final offers”). Discussions were held between the Navy and offerors submitting proposals. The Navy was looking for the lessee, or combination of lessees, that provided the greatest total rental value to the Navy.

Rents and In-Kind Consideration

After reviewing the proposals, rents are considered. The goal for outleasing is to reduce overhead costs and/or receive a benefit from the lease, such as restoration, protection, maintenance, repair, or

improvements of the property. At PNS, the Navy sought a lease or a combination of leases that would provide the greatest benefit to the Navy, or the greatest total rental value to the Navy. As previously mentioned, Title 10 USC 2667 requires that the Navy receive fair market rental value for all leased real property. However, “in-kind consideration” may be accepted in lieu of rent. In-kind consideration services include work such as maintenance, repair, and property improvements that enable an activity to reduce overhead via cost avoidance. In-kind consideration may actually be preferred to rent because 10 USC 2667 requires that cash rent go into the Treasury and be re-appropriated through Congress the following year, whereas in-kind consideration services can be applied to the leased property, or to any property at the activity, provided a substantial portion of the activity is leased.

Because prospective lessees quite often are not large businesses with a long history of successful DoD contracts, it may be very difficult to establish the lessee’s financial “responsibility” or viability and their ability to perform the lease requirements and pay the rent when it is due, generally at the end of each annual period. Accordingly, Contracting Officers should consider inserting a requirement in their Request for Proposals for prospective offerors to provide with their proposals either an Irrevocable Letter of Credit (ILOC) or a Performance Bond from a reputable financial institution or Bonding company. The ILOC or Bond will later be incorporated and attached to the awarded lease. The amount of money set in the ILOC by the Contracting Officer is discretionary; however, it is recommended that the amount be set at between 50% and 100% of the annual required amounts under the lease for rent and the minimum lessee expenditure for routine maintenance. Small fledgling businesses may have difficulty complying with such a requirement because the amount of money set generally must be deposited by the lessee in escrow with the financial institution issuing the ILOC or Performance Bond. Therefore, this requirement could reduce the number of proposals received. However, ILOCs or Performance Bonds are a reasonable way to protect the interests of the government and to ensure that you have a responsible tenant before you enter into a lease.

Step 15: Forward EBS/FOSL Package to NAVFAC for Signature

Upon completion of the EBS and FOSL, the activity forwards the package to NAVFAC or the appropriate NAVFAC EFA/EFD for signature by the CO. NAVFAC is responsible for signing FOSLs as required by ASN (I&E) memo 22 Dec 93.

Step 16: Submit Proposed Lease(s) to DASN (I&F) for Review and Approval

After the activity and NAVSEA Headquarters evaluate the proposals and select the lease awardee(s), the proposed lease(s) is submitted for legal review and approval by DASN (I&F).

PHASE IV. EXECUTION AND ADMINISTRATION

Step 17: Lease Execution and Award Announcement

Following finalization of the EBS, FOSL, NEPA documentation, FONSI, fair market value determination, and the lease document, the NAVSEA contracting officer executes the lease. The announcement of the lease award should be coordinated with the activity's PAO, the NAVSEA Office of Congressional and Public Affairs, OLA, and DASN, as appropriate.

Step 18: Administration of the Lease

NAVSEA Headquarters and the activity will need to coordinate with the lessee to determine how responsibilities set forth in the lease will be fulfilled. Specific issues are discussed below; however, it is important that the lease be thoroughly reviewed to identify all items that need to be administrated.

Environment and Safety

NAVSEA Headquarters and the activity will need to determine the process for lessee submittal of reports, plans, and other compliance documentation for review by the Navy. Documentation will likely include plans for meeting Federal and state requirements for responding to oil and other hazardous substance spills and for hazardous waste management.

Periodic monitoring of lessee activities for evaluating lease conformance will also need to be coordinated between NAVSEA Headquarters, the activity, and the lessee. This is particularly important for facilities subject to permitting or clean-up requirements, operations involving hazardous and toxic materials subject to the restrictions of 10 USC 2692, and leases potentially involving protected natural and cultural resources covered by existing programmatic agreements. Lease compliance monitoring, especially for technically oriented environmental management oversight, may be delegated by NAVSEA 02 to the field activity.

Cultural and Historical Resources

The activity will possibly need to provide the lessee's contractor with the building plans, specifications, and other information as necessary to assist in NHPA Section 106 consultations if building alterations are planned for a historical property. The lessee (or contractor) should submit a letter to the activity documenting the proposed alterations for review and coordination with the SHPO (and ACHP, if historic landmarks are affected). The activity, as the property owner, is responsible for submitting all letters, plans, etc., to the SHPO unless otherwise agreed to by both the SHPO and the Navy. It is recommended that these letters be sent as soon as possible because the SHPO and ACHP are allowed 30 days to review the proposals *from the receipt of a complete package*. Submitting the information as soon as possible will reduce the chance that this review will delay lessee renovations, especially if additional information is requested by the SHPO or ACHP.

Fire/HAZMAT Response/Police and Ambulatory Care Services

The activity and lessee should coordinate responsibilities for responding to emergencies, theft, or violence in the workplace involving tenants. For example, at PNS, meetings are held once a week between the



The CO of PNS, CAPT Williams, turns over the former Naval Prison to Mr. Joseph G. Sawtelle, managing member of PNS's newest tenant, Seavey Island LLC.

lessee's contractor, PNS's Public Works Office, and NAVFAC (NORTHDIV). The Fire Department is working with the Environmental and Safety Office and the lessee on hazardous material storage issues. PNS has agreed to provide the lessee with fire and HAZMAT spill response, police, and ambulatory care services. Agreements may include lessee reimbursement for consumables, such as spill absorbent pads and booms that are used by the activity when responding to non-Navy fires or spills.

Utilities and Services

There are several ways to provide utilities to leased property. The Navy is authorized to accept reimbursement for the costs of utilities and services furnished to the lessee under Title 10 USC 2667. If reimbursement is made directly to the Navy, it must be credited to the appropriation account or working capital fund from which the cost of furnishing utilities and services is paid.

Utility costs may be allocated without separate metering (e.g., on a square-foot basis). However, activities will need to coordinate specific agreements with each utility provider and ensure these agreements are permissible under state regulations. PNS discovered that if it sold water to the lessee, it would be considered a utility by the State of Maine, and would be regulated as such. Thus, PNS requested that the Kittery Water District meter water use by the lessee separately, and subtract it from the water used by the shipyard.

Major issues that PNS has encountered with regard to utilities and services included:

- **Financing of capital improvements:** In the case of the PNS prison, lines for telephone/fiber optic services were a considerable distance from the building. NAVTELCON wanted to sell the lessee these services, and have the lessee pay for the necessary capital improvements as a separate cost up front. But the lessee wanted the improvements to be included in the rates, and thus spread out over a period of time.
- **Security of telephone/fiber optic lines:** There was a concern about whether it would be possible to tap into the activity's telecommunication system through the lessee's lines. Issues included how far apart the lessees' lines needed to be from the activity's and whether or not the line could be in the same conduit casings, or if they had to be separated.²
- **Directions to the leased property:** Directions should be posted, so that visitors to the leased property do not get lost or enter restricted areas. PNS is considering installing signage and painting lines on the streets to guide visitors to the prison building. Responsibility for the costs of these security measures should be negotiated.
- **Mail delivery:** Typically, the postal service will only deliver mail to the front gate. The activity and the lessee will need to coordinate how to forward mail to the lessee in a timely manner.
- **Contracted services:** Garbage disposal and other contractual services may also need to be coordinated. In the case of contracted services, it may be easiest for the lessee to use the same contractors that the activity uses. The activity may want to assist the lessee by providing a list of those contractors. The lessee should work out its own service contracts; however, for security reasons the activity may need to approve the contractor that is being used if it is different than the one currently providing the service to the activity.

² Electricity and natural gas services have not been worked out yet at PNS.

A Note on Working with the Lessee

Establishing clear lines of communication with the lessee is important. Activities should do their best to resolve issues. Making outleasing work is the key. Weekly meetings between the lessee (or between the lessee's contractor) and representatives from the public works, environmental and safety, security, and fire departments may be beneficial for exchanging information and providing the lessee with needed records. At PNS, both the shipyard and the contractor are finding these meetings to be very effective.

Different offices may have varying levels of involvement after the lease is signed. For example, the Environmental and Safety Office may not have much involvement if the type of business is "white collar" (e.g., office space). However, if the lessee runs an industrial operation, the Environmental and Safety Office will continue to be involved (e.g., with wastewater issues, NPDES permits, HAZMAT, discharges into Navy owned sewer systems, etc.).

Activities should review official Navy policy on issues affecting the lessee to confirm that all practices are up to date with current Navy policy.

Step 19: Monitoring of Lease Compliance

Monitoring lease compliance is important to minimize potential risks to the Navy as the owner of leased properties. Activities should be aware that an increased workload will continue throughout the lease, and this may impact some areas more than others. A monitoring plan with reporting requirements should be established for each significant area. For example, the activity's Environmental and Safety Office should monitor lessee adherence to any applicable Navy permit requirements.



Former Naval Prison at PNS today.

APPENDIX A: FEDERAL STATUTES AND NAVY POLICY RELATING TO OUTLEASING

FEDERAL STATUTES

Title 10 USC 2667, Military Department Lease of Non-Excess Property. Authorizes military departments to lease non-excess real property and personal property under their cognizance to organizations and persons outside of the Department of Defense (DoD). Title 10 USC 2667 defines “non-excess underutilized facilities and capacity”; property leased under 10 USC 2667 is not considered “excess,” as defined by 40 USC 472, but must not be needed for public use (for the time being). A lease term greater than 5 years, and/or omission of the government right to revoke the lease at will requires ASN (I&E) approval. Approval is granted only if the longer term and/or relinquishment of revocation rights will promote national defense or be in the public interest. A real property lease would typically have a 5-year term, with 2 or 3 lessee options to extend for an additional 5-year period, subject to government termination rights.

Title 10 USC 2471, Lease of Excess Depot-Level Equipment and Facilities. Authorizes military departments to lease “excess” equipment and facilities of a depot-level activity, provided that the lease will not have significant adverse effect on the readiness of the armed forces. “Excess” is interpreted to mean any equipment or facility with underutilized capacity (as distinguished from equipment and facilities that are truly in excess of the military’s needs and thus subject to disposal). Any lease proposed under 10 USC 2471 requires approval from the Secretary of the Navy. Title 10 USC 2471 does not apply to Class 1 real estate (but does apply to Class 2, 3, and 4 property). In addition, 10 USC 2471 does not authorize “in-kind consideration” service in lieu of cash rents. Because of these circumstances, 10 USC 2667 is considered more likely to be advantageous to outleasing at Navy activities.

Title 10 USC 2692, Storage, Treatment, and Disposal of Non-Defense Toxic and Hazardous Materials. In general, prohibits the storage, treatment, and disposal of non-defense toxic and hazardous materials on military installations. Lessee operations involving toxic or hazardous materials may be subject to the restrictions of 10 USC 2692. In order to allow lessee operations involving treatment and storage of non-defense toxic and hazardous materials, ASN(I&E) must determine that the material is required or generated in connection with an authorized and compatible use of the facility or NAVSEA HQ must request a waiver to this requirement. Additionally, there must be a contract or agreement that such operations are consistent with the national defense, and the contract must provide for the lessee's continued environmental and financial responsibility and liability. Allowing lessees to store and treat hazardous wastes requires an activity to monitor lessee operations because of the increased potential for environmental liabilities to arise. Because the Navy still owns the property, the Navy is responsible.

Title 42 USC 11301 et seq., Stewart B. McKinney Homeless Assistance Act. Applies to federal real property that is underutilized, but not excess, and can be made available for exclusive possession by a non-Navy entity for at least one year. Under Title V (Section 501) of the Act, federal agencies are required to notify the Department of Housing and Urban Development (HUD) regarding availability of underutilized, non-excess property. HUD has 30 days to screen the property for suitability for use as facilities to assist the homeless. Applicable regulations include 45 CFR 12 and 45 CFR 12a.

Title 42 USC 4321 et seq., National Environmental Policy Act (NEPA). Mandates federal agencies utilize a systematic, interdisciplinary approach that ensures the integrated use of natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment. Implemented by Council of Environmental Quality (CEQ) regulations in 40 CFR 1500-1508. Department of the Navy (DON) procedures for implementing NEPA are located in 32 CFR 775.

Title 16 USC 470 et seq., National Historic Preservation Act of 1966 (NHPA). Requires an expanded National Register of Historic Places (National Register) and establishes the Advisory Council on Historic Preservation (ACHP). Under Section 106 of this Act, federal agencies are required to analyze potential impacts on properties that are listed on the National Register, or eligible for listing on the National Register, through a process known as "effects determination." If the proposed action is expected to impact a historic structure, the federal agency must consult with the State Historic Preservation Officer (SHPO) on the potential effects and determine the need for mitigation, if necessary. The ACHP must also be involved when National Historic Landmarks may be affected. Section 110 requires federal agencies to identify, evaluate, inventory and protect National Register resources (or resources eligible for listing on the Historic Register) on properties they control. Applicable regulations include 36 CFR 800.

Title 16 USC 470aa et seq., Archeological Resources Protection Act of 1979 (ARPA). Requires the issuance of permits for authorized professional excavation or removal of archeological resources. ARPA requires archeological surveys of Class I property, and imposes civil and criminal penalties for unauthorized excavation, removal, damage, alteration, or defacement of archeological resources, or attempts to perform such unauthorized acts. Applicable regulations include 18 CFR 1312.

Title 42 USC 2011 et seq., Atomic Energy Act of 1954. Requires the Navy to protect Naval Nuclear Propulsion Information (NNPI), classified, and other sensitive information from unauthorized foreign nationals.

Title 42 USC 9601, et seq., Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Authorizes federal action to respond to release, or substantial threat of release, into the environment of hazardous substances, pollutants, or contaminants that may present an imminent and substantial danger to public health or welfare. Applicable regulations include 40 CFR 300-310.

Title 42 USC 6901 et seq., Resource Conservation and Recovery Act (RCRA). Establishes a national strategy for the management of current solid waste and hazardous waste operations. RCRA requires corrective action for releases of hazardous waste and constituents at facilities that manage hazardous waste. Under RCRA, permits are required and issued to facilities that treat, store, or dispose of solid waste and hazardous wastes. Applicable regulations include 40 CFR 260-279.

DoD/NAVY POLICY

ASN (I&E) ltr. dated 22 December 1993, "DON Environmental Procedures Applicable to Non-BRAC Real Estate Action." Establishes policy for completing an Environmental Baseline Survey (EBS) and Finding of Suitability to Lease (FOSL)/Finding of Suitability to Transfer (FOST) for all leases,

easements, and transfers of real property at non-BRAC locations. Also requires consultation with federal, state, and local regulators, as necessary and appropriate, in the preparation of the EBS and FOSL/FOST. Finally, requires the incorporation of standard DoD environmental provisions into leases, easements, and transfers of real property at non-BRAC locations (Enclosure 1).

ASN (I&E) ltr. dated 07 May 1997, “Outgrants of Department of the Navy Controlled Real Property.” Policy directive that states outgrants of Navy controlled property for a term in excess of 5 years and/or that give the grantee the authority to construct improvements on granted land must be approved by ASN (I&E).

Department of Defense Model Environmental Lease Provisions. Standard terms and conditions that are protective of the environment (Enclosure 2). Although developed for BRAC locations, ASN (I&E) ltr. dated 22 December 1993 requires these provisions to be used for all DON environmental procedures applicable to non-BRAC real estate actions.

SECNAVINST 11011.43A, Lease of DON Non-Excess Industrial Real Property. Implements 10 USC 2667 for industrial real property under NAVSEA cognizance.

SECNAVINST 11011.47, Lease of DON Non-Excess Non-Industrial Property. Implements policy for leasing non-industrial real property under NAVFAC cognizance.

OPNAVINST 5090.1B CH-2 of 9 September 1999. Implements policy for natural resources management on Navy controlled property.

OPNAVINST 5100.23E, Navy Occupational Safety and Health Program Manual, of 15 January 1999. Implements policy for occupational safety and health on Navy controlled property.

NAVSEA OP 5, Change 4 (NSN 0630-LP-544-2100-2104). Provides policy on explosives safety quantity-distance requirements and decontamination procedures relating to leased facilities. *Note:* To be placed on automatic distribution to receive copies of NAVSEA OP 5, activities should contact Julia Coiner, Telephone: 732.866.2834 (DSN 449.2834), or email: coinerjm@phst.navy.mil

NAVFAC Real Estate Procedure Manual P-73. Provides policy and procedures pertaining to acquisition, disposal, and utilization of Department of the Navy (DON) real property.

Management of NAVSEA Non-Excess Underutilized Facilities and Capacity Programmatic Environmental Assessment (Draft). The purpose of the NAVSEA Programmatic EA is to establish an improved business process to manage NAVSEA non-excess underutilized facilities and capacity, which promotes increased levels of temporary beneficial use of these assets to defray infrastructure maintenance costs while maintaining mission-critical capabilities. *Note:* This information can be obtained by contacting the NAVSEA Office of Environmental Protection and Occupational Safety and Health (SEA 00T). Telephone: 703.602.3594.

OMB A-76, Performance of Commercial Activities. Provides policy and guidance on the conduct of NAVSEA real property outgranting by other government agencies and private sector organizations.

**ENCLOSURE 1: ASN (I&E) LETTER DATED 22 DECEMBER 1993:
DON ENVIRONMENTAL PROCEDURES APPLICABLE TO NON-BRAC REAL ESTATE ACTION**



THE ASSISTANT SECRETARY
(INSTALLATIONS AND ENVIRONMENT)
WASHINGTON, D.C. 20380-8100

December 22, 1993

**MEMORANDUM FOR THE CHIEF OF NAVAL OPERATIONS (N4)
COMMANDANT OF THE MARINE CORPS (LF)**

Subj: DON ENVIRONMENTAL PROCEDURES APPLICABLE TO NON-BRAC REAL ESTATE ACTION

Ref: (a) DASN(E&S) Environmental Policy Memorandum 93-03 of 15 SEP 93: Procedures for Identification of Uncontaminated Property and Cleanup of Contaminated property at Closing Installations
b) DEPSECDEF Memorandum of 18 June 1993: Fast Track Cleanup at Closing Installations

Reference (a) provided guidance for implementation within the Navy and Marine Corps of the "Fast Track Cleanup" policies contained in reference (b). The policies and procedures contained therein apply only to installations being closed or realigned pursuant to the Base Closure and Realignment Act of 1988 (P.L. 100-526) or the Defense Base Closure and Realignment Act of 1990 (P.L. 101-150). However, the environmental concerns which led to the promulgation of references (a) and (b) are of equal concern in Non-BRAC real estate actions. The purpose of this memorandum is to provide environmental guidance to Navy and Marine Corps activities regarding Non-BRAC real estate actions.

The following guidance is established for Non-BRAC real estate actions:

a. **Environmental Baseline Survey (EBS).** An EBS shall be prepared for all leases, easements and transfers of real property. Where appropriate, an EBS should be prepared for other actions involving the use of real property, e.g., licenses, depending on such factors as proposed use, the term of the use, and the presence of any contaminants on the property. In preparing an EBS for Non-BRAC real estate actions, the procedures established by enclosures (1) and (2) to reference (a) should be used as a guide. The scope of the EBS (investigation and documentation) must be appropriate to the type of real estate actions and property involved.

b. **Finding of Suitability for Transfer (FOST) or Lease (FOSL).** A FOST and FOSL shall be prepared for each EBS. The FOST or FOSL shall be executed by the EFD Commander for Navy Activities and the cognizant Commanding General for Marine Corps Activities. This authority may be redelegated. The EBS and FOST/FOSL shall be permanently retained in the real estate contract file.

c. Regulator Involvement. In the preparation of an EBS and the FOST/FOSL for a Non-BRAC real estate action, Federal, State, and local regulators shall be consulted as necessary and appropriate, e.g., EPA where parcel involved is part of an NPL site.

d. Model Environmental Provisions. DOD has prepared model environmental provisions for leases and deeds at base closure locations (enclosures (1) and (2) to reference (b)). These provisions, modified as necessary, shall be included in leases, easements and transfers of real property at Non-BRAC locations.

Please ensure the distribution of this policy to all subordinate commands. Our point of contact is Ms. Michele Greco, (703) 602-2890.


F. S. STERNS
Acting

ENCLOSURE 2: MODEL LEASE PROVISIONS

The Military Departments will execute interim leases that incorporate certain standard provisions tailored to the specific policies of the individual Departments. Each of the Military Departments have developed model lease documents. Copies can be obtained by contacting the applicable Military Departments base closure office. Site-specific environmental, cultural, historical, and operational requirements and restrictions will be added to the model interim lease provisions following review of the proposed use and further analysis of its impacts. It is the responsibility of the applicant to make sure that all lease provisions are understood and the condition of the premises proposed for lease are known prior to lease execution. Standard Provisions include:

1 Use of the premises

The lease will state what purposes and uses are approved.

2 Term of lease

In the past, the term of an interim lease could only last for up to five years, including options to renew. Recently, Section 2833 of the NDAA 96 granted the Department the authority to enter into interim leases with terms that extend beyond the expected completion date for the disposal Environmental Impact Statement (EIS). This is true even if final property disposal is consequently delayed because the Lessee's use of the property differs from that outlined in the Record of Decision (ROD). This authority, however, is only available if the proposed lease can be supported by a CATEX or an EA/FONSI.

3 Termination

In addition to the right to terminate for non-compliance with the lease conditions, the Military Department reserves the right to terminate the lease and remove the tenant in the event of national emergency as declared by the President or the Congress of the United States. Unless special circumstances justify a shorter period, the Lessee will be provided with no less than 30 days' notice that termination is necessary and will be provided a reasonable time to vacate the premises.

4 Consideration

a. Public Benefit Discounted Rental. If the Lessee meets certain public benefits criteria, to the extent authorized by law, the Military Department may approve consideration less than the fair market rental of the leasehold interest. If the consideration is less than fair market value, then Lessee receipts from third parties; e.g., Sublessee rental, must be used for protection, maintenance, repair, improvement, and cost related to the installation to include LRA marketing and management activities.

b. Fair Market Value Rental. If the Lessee does not qualify for a public benefit rental reduction, then the total consideration, in cash or in kind, will not be less than the estimated fair market rental of the leased interest. The fair market value of the leased interest should take into account the property, the restrictions on use and access to the property, the terms and degree of Government control in the lease document, the termination rights, and any other specifics of the type of use.

In some circumstances, the Military Departments may authorize the fair market rental consideration to be offset for maintenance, protection, repair, improvement, or restoration. Lessees may maintain, protect, repair, improve and restore Government facilities on leased properties, exteriors as well as interiors, as well as the leased premises, as all or part of the rental. These obligations may extend to the entire installation. Offsets are applicable only to those activities that are in addition to the routine maintenance, protection and repair requirements of any Lessee. In any case, the value of the rental offset and/or any cash rent reserved to the Government must be equal to or exceed the fair market value of the leased interest granted. Environmental, cultural, and historical activities can be included in rental offsets, including restoration. Rent will not be offset for the value of structures unless title will be vested in the United States. Improvement should be viewed more broadly as improvement to the premises; e.g., upgrade of roads, landscaping, or capital improvements, beyond repair or maintenance. Environmental remediation must be accomplished in consonance with applicable environmental laws and regulations.

5 Notice

The lease will set out how official notice will be given and state the address for written notices. Under any lease, the Lessor and Lessee will have occasion to provide the other with formal correspondence and notices.

6 Authorized representatives

The lease may provide for delegation for day-to-day lease administration functions to authorized individuals.

7 Supervision of the premises

The leased premises are under the supervision of a Government official, who is responsible for the use and occupation of the premises.

8 Applicable rules and regulations

The Lessee and any Sublessees are required to comply with all Federal, State and local laws, regulations and standards that are applicable when the lease is executed or may become applicable to the Lessee's activities on the leased premises later. These include laws and regulations on the environment, construction of facilities, health, safety, food service, water supply, sanitation, use of pesticides, and licenses or permits to do business. The Lessee and any Sublessee are responsible for obtaining and paying for permits required for its operations under the Lease.

9 Condition of the premises

The lease states that the Lessee has inspected the premises, understands the condition, and understands that the United States is not providing any warranties or promises to make any alterations, repairs, or additions thereto. The Military Department and the Lessee will jointly conduct an inventory and condition survey, to include the environmental condition, prior to lease execution by either party. The inventory and condition surveys will be documented in a report prepared by the Military Department, signed by both parties, which will be attached to the lease. The report may note items identified in the EBS, as well as any other environmental conditions that may not be specifically identified in the EBS report. The report will acknowledge leasehold conditions. At the conclusion of the lease period, the Military Department and the Lessee will jointly conduct a close-out survey. The Military Department will prepare a close-out report. All significant variances from the original report should be clearly documented. This close-out

report will constitute the basis for settlement by the Lessee for any leased property shown to be lost, damaged or destroyed.

10 Transfers, assignments, and subleasing

Provision 10a. should be used for leases that are not a master lease. Provision 10b. should be used for master leases.

a. The Lessee may not assign or transfer the lease to another party without the approval of the Military Department. Subleasing will be authorized subject to approval of the sublease by the Military Department. The Military Department will conduct its negotiations with the Lessee, not the Sublessee(s). Sublease rental will be negotiated between the Lessee and Sublessee and may be different in amount or expressed differently than that in the prime lease. The term of a sublease will be no longer than that in the prime lease, so that expectations of continued tenancy after disposal will not be created. The provisions of the sublease must not be inconsistent with the provisions of the prime lease and the sublease must state that it is subject to the prime lease. In case of any conflict between the instruments, the prime lease will control.

b. The Lessee may not assign or transfer the lease to another party without the approval of the Military Department. The Lessee is not required to obtain Military Department approval of subleases, unless the sublease involves the use of hazardous materials under 10 U.S.C. 2692, but must provide a copy of all subleases to the Military Department. The Military Department will conduct its negotiations with the Lessee, not the Sublessee(s). Sublease rental will be negotiated between the Lessee and Sublessee and may be different in amount or expressed differently than that in the prime lease. The term of a sublease will be no longer than that in the prime lease, so that expectations of continued tenancy after disposal will not be created. The provisions of the sublease must not be inconsistent with the provisions of the prime lease and the sublease must state that it is subject to the prime lease. In case of any conflict between the instruments, the prime lease will control.

11 Utilities

The Military Department must be reimbursed for the cost of any utilities provided. Utility issues vary widely with the specific situations of the installation. The Lessee should develop plans for assumption of the utilities by the local utility provider or other qualified entity.

12 Protection of the property

The Lessee is obligated to keep the premises in good order and in a clean, safe condition by and at the expense of the Lessee. The Lessee is responsible for any damage that may be caused to property of the United States by the activities of the Lessee under this lease.

13 Insurance

If a lease authorizes the Lessee to possess and use Government-owned improvements, the Lessee must insure such improvements for full insurable value, where practicable, to assure future Government use. State governmental entities are usually not required to provide liability insurance. Self-insurance may be satisfactory for qualified governmental agencies. Other entities may be required to obtain liability insurance.

14 Right to enter

The Government has the right to enter the premises for any Government purpose, including the right to inspect the premises for compliance with the conditions of the lease and for compliance with environmental, safety and other laws, even if the Government is not the enforcement agency. Except in unusual situations, notice of these entries will be given.

15 Indemnity/hold harmless clause

The United States is not responsible for damages to property or injuries to persons caused by the Lessee's use of the premises or for damages to the property of the Lessee. The Lessee will be expected to indemnify the United States from such claims. This does not include damages due to the fault or negligence of the United States or its contractors.

16 Restoration

At the end of the lease, the Lessee will be expected to vacate the premises, remove the Lessee's property and restore the premises or pay the United States for the cost of restoration loss in lieu of restoration, at the option of the United States. Any property of the Lessee not removed may be removed by the United States or become property of the United States.

17 Non-discrimination

Leases require non-discrimination in all operations, programs or activities conducted on the leased premises. If the Lease will be for less than fair market value, then the Lessee is considered to be receiving Federal financial assistance and the lease will contain certain required assurances.

18 Subject to easements

The United States or its predecessor in title may have granted easements, road and utility rights-of-way, or other such rights. The Lease is granted subject to these outstanding rights. Any new easements will be coordinated with the Lessee.

19 Rental adjustment

If the United States must revoke the lease, except for the Lessee's non-compliance, decrease the size of the leased premises, or materially affect the use available, then rental, if applicable, may be adjusted.

20 Waste

The Lessee must not commit waste of any kind or in any manner substantially change the contour or condition of the premises except as authorized in writing by the Military Department.

21 Disputes clause

The provision establishes a procedure for resolving claims.

22 Environmental protection

The DoD Policy on the Environmental Review Process to Reach a Finding of Suitability to Lease (FOSL), contained in the Deputy Secretary of Defense Memorandum “Fast Track Cleanup at Closing Installations,” May 18, 1996, includes the following set of model lease provisions that specifically address environmental protection issues:

1. The sole purpose(s) for which the Leased Premises and any involvements thereon may be used, in the absence of written approval of the Government for any other use, [insert intended use of the Leased Premises]. [*See Use of the Premises.*]
2. The Lessee shall neither transfer nor assign this Lease or any interest therein or any property on the Leased Premises, nor sublet the Leased Premises or any part thereof or any property thereon, nor grant any interest, privilege, or license whatsoever in connection with this Lease without the prior written consent of the Government. Such consent shall not be unreasonably withheld or delayed. Every sublease shall contain the Environmental Protection provisions herein. [*See Transfers, assignments, and subleasing.*]
3. The Lessee and any Sublessee shall comply with the applicable Federal, State, and local laws, regulations, and standards that are or may become applicable to Lessee’s activities on the Leased Premises. [*See Applicable rules and regulations.*]
4. The Lessee and Sublessee shall be solely responsible for obtaining at its cost and expense any environmental permits required for its operations under the Lease, independent of any existing permits.
5. The Government’s rights under this Lease specifically include the right for Government officials to inspect upon reasonable notice the Leased Premises for compliance with environmental, safety, and occupational health laws and regulations, whether or not the Government is responsible for enforcing them. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. The Government normally will give the Lessee or Sublessee twenty-four (24) hours prior notice of its intention to enter the Leased Premises unless it determined the entry is required for safety, environmental, operations, or security purposes. The Lessee shall have no claim on account of any entries against the United States or any officer, agent, employee, or contractor thereof. [*See Right to enter.*]

NOTE: USE THE FOLLOWING PROVISIONS 6. IF THE LEASED PROPERTY IS PART OF A NATIONAL PRIORITIES LIST (NPL) SITE; ADAPT TO CLEANUP AGREEMENTS TO SUIT CLEANUPS UNDER STATE REGULATORY AUTHORITIES (E.G., A NON-NPL SITE).

6. The Government acknowledges that [insert name of military installation] has been identified as a National Priorities List Site under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The Lessee acknowledges that the Government has provided it with a copy of the [insert name of military installation] Federal Facility Agreement (FFA) entered into by the United States Environmental Protection Agency (EPA) Region [insert number], the State of [insert name of State], and the Military Department and effective on [insert date], and will provide the Lessee with a copy of any amendments thereto. The Lessee agrees

that should any conflict arise between the terms of such agreement as it presently exists or may be amended (“FFA,” “Interagency Agreement,” or “IAG”) and the provisions of this Lease, the terms of the FFA or IAG will take precedence. The Lessee further agrees that notwithstanding any other provision of the Lease, the Government assumes no liability to the Lessee or its Sublessees or licensees should implementation of the FFA interfere with the Lessee’s or any Sublessee’s or licensee’s use of the Leased Premises. The Lessee shall have no claim on account of any such interference against the United States or any officer, agent, employee or contractor thereof, other than for abatement of rent.

NOTE: USE THE FOLLOWING PROVISION 7. IF A FEDERAL FACILITIES AGREEMENT (FFA) OR INTERAGENCY AGREEMENT (IAG) APPLIES TO THE PROPERTY BEING LEASED (E.G., AN NPL SITE).

7. The Government, EPA, and the [insert name of State agency] and their officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to the Lessee and any Sublessee, to enter upon the Leased Premises for the purposes enumerated in this subparagraph and for such other purposes consistent with any provision of the FFA:

- a. to conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test-pitting, testing soil borings and other activities related to the [insert name of military installation] Installation Restoration Program, FFA or IAG;
- b. to inspect field activities of the Government and its contractors and subcontractors in implementing that [insert name of military installation] IRP, FFA or IAG;
- c. to conduct any test or survey required by the EPAS or [insert name of State agency] relating to the implementation of the FFA or environmental conditions at the Leased Premises or to verify any data submitted to the EPA or [insert name of State agency] by the Government relating to such conditions;
- d. to construct, operate, maintain or undertake any other response or remedial action as required or necessary under the [insert name of military installation] IRP or FFA or IAG, including, but not limited to monitoring wells, pumping wells, and treatment facilities.

NOTE: USE THE FOLLOWING ALTERNATE PROVISION 7. IF THE INSTALLATION RESTORATION PROGRAM (IRP) OR OTHER ENVIRONMENTAL INVESTIGATION APPLIES TO THE PROPERTY BEING LEASED (E.G., A NON-NPL SITE).

7. The Government and its officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to the Lessee and any Sublessee, to enter upon the Leased Premises for the purposes enumerated in this subparagraph.

- a. to conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test-pitting, testing soil borings and other activities related to the [insert name of military installation] Installation Restoration Program (IRP);
- b. to inspect field activities of the Government and its contractors and subcontractors in implementing the [insert name of military installation] IRP;
- c. to conduct any test or survey related to the implementation of the IRP or environmental conditions at the Leased Premises or to verify any data submitted to the EPA or [insert name of State agency] by the Government relating to such conditions;

- d. to construct, operate, maintain or undertake any other response or remedial action as required or necessary under the [insert name of military installation] IRP, including, but not limited to monitoring wells, pumping wells and treatment facilities.
8. The Lessee agrees to comply with the provisions of any health or safety plan in effect under the IRP or the FFA during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representatives designated by the Lessee and any Sublessee. The Lessee and Sublessees shall have no claim on account of such entries against the United States or any officer, agent, employee, contractor, or subcontractor thereof. In addition, the Lessee shall comply with all applicable Federal, State, and local occupational safety and health regulations.
9. The Lessee further agrees that in the event of any assignment or sublease of the Leased Premises, it shall provide to the EPA and [insert name of State agency] by certified mail a copy of the agreement or sublease of the Leased Premises (as the case may be) within fourteen (14) days after the effective date of such transaction. The Lessee may delete the financial terms and any other proprietary information from the copy of any agreement of assignment or sublease furnished pursuant to this condition.
10. The Lessee shall strictly comply with the hazardous waste permit requirements under the Resource Conservation and Recovery Act, or its [insert name of State] equivalent. Except as specifically authorized by the Government in writing, the Lessee must provide at its own expense such hazardous waste management facilities, complying with all laws and regulations. Government hazardous waste management facilities will not be available to the Lessee. Any violation of the requirements of this condition shall be deemed a material breach of this Lease.
11. DoD Component accumulation points for hazardous and other wastes will not be used by the Lessee or any Sublessee. Neither will the Lessee or Sublessee permit its hazardous wastes to be commingled with hazardous waste of the DoD Component.
12. The Lessee shall have a Government-approved plan for responding to hazardous waste, fuel, and other chemical spills prior to commencement of operations on the Leased Premises. Such plan shall be independent of [insert name of military installation] and, except for initial fire response and/or spill containment, shall not rely on use of installation personnel or equipment. Should the Government provide any personnel or equipment, whether for initial fire response and/or spill containment, or otherwise on the request of the Lessee, or because the Lessee was not, in the opinion of the said officer, conducting timely cleanup actions, the Lessee agrees to reimburse the Government for its cost.
13. The Lessee shall not construct or make or permit its Sublessees or assigns to construct or make substantial alterations, additions, or improvements to or installations upon or otherwise modify or alter the Leased Premises in any way that may adversely affect the cleanup, human health, or the environment without prior written consent of the Government. Such consent may include a requirement to provide the Government with a performance and payment bond satisfactory to it in all respects and other requirements deemed necessary to protect the interests of the Government. For construction or alterations, additions, modifications, improvements or

installations (collectively “work”) in the proximity of operable units that are part of a National Priorities List (NPL) Site, such consent may include a requirement for written approval by the Government’s Remedial Project Manager. Except as such written approval shall expressly provide otherwise, all such approved alterations, additions, modifications, improvements, and installations shall become Government property when annexed to the Leased Premises.

14. The Lessee shall not conduct or permit its Sublessees to conduct any subsurface excavation, digging, drilling or other disturbance of the surface without prior written approval of the Government.

In addition, there may be site-specific restrictions or provisions, such as to protect endangered species, restrict use of wetlands, support coastal zone management plans, or limit floodplain activities.

23 Environmental baseline survey

See discussion above.

24 Taxes

As required by law, any and all taxes imposed by the State or its political subdivisions upon the property or interest of the Lessee in the premises shall be paid promptly by the Lessee. Although the property of the United States is not taxed, if and to the extent that the property owned by the Government is later made taxable by State or local governments under an Act of Congress, the lease may be renegotiated.

25 Covenant against contingent fees

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or established commercial or selling agencies maintained by the Lessee for the purpose of securing business.

26 Officials not to benefit

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this lease or to any benefits to arise therefrom. This does not cover an incorporated company if the lease is for the general benefit of such corporation or company.

27 Accounts and records

The accounts and records of the Lessee will be subject to review and audit.

28 Modification/agreement

The written lease is the full agreement. Any modifications must be in writing.

29 No commitments for future use

Interim use leases will contain provisions disavowing any right or expectation for the interim user or its tenants or subtenants to acquire the leased property. Interim leases may be entered into prior to the completion of the final reuse or disposal decisions, including, if applicable, the issuance of the ROD or prior to implementation of the action identified in the ROD.

30 Lease signature authority

At the time of execution of the lease, the Lessee will furnish certification of authority to sign the lease.

APPENDIX B: REFERENCE MATERIAL

Note: Documents referenced herein can be obtained by contacting the NAVSEA Office of Environmental Protection and Occupational Safety and Health (SEA 00T) at 703.602.3594 unless otherwise noted.

NAVSEA GUIDANCE

NAVSEA ltr. 7000 Ser 0713/269 dated 08 September 1997. “NAVSEA Outlease Program,” with enclosures. (*Note:* Does not include shared use.)

This information can be obtained by contacting the NAVSEA Installation and Equipment Office (SEA 04XI). Telephone: 703.602.4364

REFERENCE MATERIALS FOR COMPLETING THE ENVIRONMENTAL BASELINE SURVEY

ASTM Standard Practice for Conducting Environmental Baseline Surveys, D 6008-96 (tailored to DoD requirements for transfer of property under CERFA).

ASTM Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, E 1527-97 (developed for commercial real estate use to qualify users for the innocent landowner defense to CERCLA liability).

Air Force Instruction 32-7066, 25 April 1994: Environmental Baseline Surveys in Real Estate Transactions.

REFERENCE MATERIAL FROM PORTSMOUTH NAVAL SHIPYARD’S OUTLEASING INITIATIVE

NAVSEA ltr. 4200 OPR: 02812/JH Ser 028/0402 dated 18 June 1999, with enclosure: Portsmouth Naval Shipyard lease agreement with Seavey Island L.L.C. This information can be obtained by contacting the Portsmouth Naval Shipyard Office of Legal Counsel (Code 100L). Telephone: 207.438.2880.

Portsmouth Naval Shipyard Environmental Assessment for Outleasing and Shared Use, February 1999. This information can be obtained by contacting the NAVSEA Office of Environmental Protection, Occupational Safety and Health (SEA 00T). Telephone: 703.602.3594.

NAVSEA Office of Legal Counsel (SEA 00L) “Information for Offerors” (Solicitation Information). This information can be obtained by contacting the NAVSEA Office of Legal Counsel (SEA 00L). Telephone: 207.438.2880.

Commander, Portsmouth Naval Shipyard ltr. 5510 Ser. 09T24/097 dated 14 August 1998, Portsmouth Naval Shipyard Security Island Plan; Forwarding. This information can be obtained by contacting the Portsmouth Naval Shipyard Security and Law Enforcement Office (Code 1720). Telephone: 207.438.3522.

Shipyard Leasing Security Issues White Paper and Leasing Lessons Learned by Office of Security and Law Enforcement. This information can be obtained by contacting the NAVSEA Office of Security and Law Enforcement (SEA 09T). Telephone: 703.602.3207.

APPENDIX C: OUTLEASING RESPONSIBILITIES BY DEPARTMENTAL CODE

Developed based on the recommended actions identified by Portsmouth Naval Shipyard Office of Legal Counsel in “Procedures for Outleasing Facilities at the Portsmouth Naval Shipyard.”

Overall Command Team Actions	C-1
Business Office	C-2
Public Affairs Office	C-3
Facilities and Maintenance (or Public Works) Department	C-4
Radiological Control Office	C-5
Environmental and Safety Office	C-5
Security and Law Enforcement	C-6
Fire Department	C-7
Cultural Resources Programs	C-7
Office of Legal Counsel	C-8

OVERALL COMMAND TEAM ACTIONS

- 1 CO assigns overall responsibility for the outleasing initiative to one department and designates a central POC. This individual is responsible for:
 - Acting as team leader for the integrated outleasing team.
 - Identifying, defining, and assigning key roles and responsibilities among team members/departments. (Including, who is responsible for providing comments, tracking progress, adding and updating information, and maintaining each key document, such as the EBS, EA, draft lease, etc., and determining what actions each party may have as a result of any findings.)
 - Staying up-to-date on the status of the outleasing process and the subtasks within the process.
 - Promoting communication via regular outleasing team meetings, weekly emails, and publication of command-wide memoranda. Facilitating communication among departments at the activity, and between the activity and NAVSEA Headquarters, NAVFAC, potential lessees, the regulators, and the media.
 - Distributing draft documents to the appropriate individuals/departments for review.
 - Coordinating site visits for potential lessees, regulators, Headquarters, etc.
- 2 Develop an Outlease Plan that identifies all property potentially suitable for leasing or shared use (near term or at some future date). The CO, Outleasing POC, and outleasing team should also be involved with development of the source selection plan, proposal evaluations, and lease provisions.
- 3 Submit Outlease Plan to NAVSEA (NAVSEA will submit to ASN (I&E) for review).

- 4 Assist NAVSEA Headquarters, as necessary, with developing and publicizing a sources sought announcement to determine potential private sector interest in the property conceptually approved by ASN (I&E) for outlease. Installations are responsible for placement of the sources sought announcement in the local news media.
- 5 Contact NAVFAC to request support for completion of the EBS/FOSL and NEPA documentation. Contact the activity's Reserve Coordinator if Reservist support will be needed to assist with internal research for the EBS.
- 6 Assist NAVSEA Headquarters, as necessary, with obtaining approval from ASN (I&E) and ASN (RD&A) to offer the screened property for lease.
- 7 Obtain property appraisals from NAVFAC.
- 8 Assist NAVSEA Headquarters, as necessary, with preparing and issuing a solicitation (request for proposals) and source selection plan. Publicize the solicitation in the local media. (NAVSEA Headquarters is responsible for publicizing the solicitation in the CBD.)
- 9 Hold a pre-proposal conference for offerors.
- 10 In conjunction with NAVSEA, evaluate proposals and negotiate with the offerors to determine the proposal (or combination of proposals) that is in the best interest to the Navy.
- 11 Assist NAVSEA Headquarters, as necessary, with execution and administration of the lease.
- 12 Monitor lessee compliance with lease provisions, as required depending on the responsibilities delegated by NAVSEA Headquarters to the activity.

BUSINESS OFFICE

- 1 Determine if there is a sound business case to outlease.
 - Does excess infrastructure exist?
 - Can greater operating efficiency be achieved?
 - Will future financial obligations be reduced or eliminated?
- 2 Review all activity assets and determine the space/buildings suitable for leasing, and the equipment that will stay in each facility. Coordinate with the Facilities and Maintenance Department, as needed, and the outleasing team.
- 3 Initiate functional and organizational consolidation plans early. Include the following:
 - Determine potential physical consolidations and buildings to be vacated yielding a more efficient operational infrastructure for the Command.
 - Determine whether to demolish buildings or make them available for outleasing.
 - Identify equipment in consolidated spaces that could be made available for lease.
 - Establish the Command's rules for what is acceptable/unacceptable use of each facility.Coordinate this effort with the Facilities and Maintenance Department, and the outleasing team.

- 4 Notify chain of command and key Headquarters codes (SEA04X) before initiating any formal action to outlease.
- 5 Establish separate overhead job orders to capture cost associated with preparing for and executing outleasing properties. Ensure all costs are charged accordingly.
- 6 Meet with congressional representatives, local community leaders, and planning groups to help find tenants and supply information on the companies that have shown interest in leasing. Those candidates interested in the most marketable properties should be a top priority.
- 7 Coordinate with the Facilities and Maintenance Department, the Public Affairs Office, and NAVSEA Headquarters to develop and publicize the sources sought announcement and the solicitation.
- 8 Consider whether contacting local and state governments to discuss tax issues and possible tax incentives for the lessee would benefit the outleasing process.
- 9 Determine the impact of the approximate parking requirements:
 - Location, cost, mass transit alternatives
- 10 Determine how to control shared use areas when no activity worker is on site:
 - Security requirements
 - Personnel safety and fire protection
 - Environmental and safety protection
 - Billing process

PUBLIC AFFAIRS OFFICE

- 1 Create a Public Affairs Plan in conjunction with the NAVSEA Office of Congressional and Public Affairs.
- 2 Assist the CO with communicating the concept of outleasing to activity employees and to labor and management organizations.
- 3 Coordinate with the NAVSEA Office of Congressional and Public Affairs to notify the appropriate congressional delegates prior to issuing a sources sought announcement, as appropriate.
- 4 Interface with local news media (i.e., newspapers, television, radio stations). All responses must go through the NAVSEA Office of Congressional and Public Affairs prior to release.
- 5 Field calls from parties showing interest in the outleasing process. Coordinate with the Business Office and Facilities and Maintenance Department, as necessary.
- 6 Interface with all visitors interested in touring potential facilities. Schedule and publicize on-site tours. Contact the Security Office to determine appropriate access clearance required for scheduled tours.

- 7 Convince the local media to run articles on the leasing opportunity concurrent with the solicitation to generate awareness within the private sector.
- 8 Coordinate the lease award and associated press releases and media briefings with the NAVSEA Office of Congressional and Public Affairs.

FACILITIES AND MAINTENANCE (OR PUBLIC WORKS) DEPARTMENT

- 1 Compile a complete list of buildings, equipment, and space being considered for outleasing or shared use.
- 2 Identify all property to include in the Environmental Baseline Surveys (EBS). Keep in mind that areas beyond the immediate vicinity of candidate buildings may be needed for parking and landscaping, etc. Coordinate with the Environmental and Safety Office in the development of the EBS. This process should be started as soon as possible so that it will be complete when the lease is ready to be signed.
- 3 Brief representatives from the regional NAVFAC office on the details of the Command's outleasing process. It will be different from the BRAC outleasing procedure that NAVFAC uses.
- 4 Develop a consolidation plan for the relocation of equipment and personnel that occupy each building or area that may be outleased. Develop a timeline for the move leading to building availability. Coordinate this effort with the Business Office.
- 5 Ensure that the plant property cards are reviewed and updated (building location and annual maintenance requirements) for the facilities under consideration for leasing.
- 6 Determine the costs associated with machinery usage and maintenance. This should include operational costs (i.e., utilities and maintenance) and costs involved with shared use equipment. Determine the rates for the shared use equipment and cost involved with impact to the activity for shared use equipment. Consult with the Business Office, as needed.
- 7 Determine the need for building alterations to move equipment out of leased buildings.
- 8 Coordinate with the Business Office, the Public Affairs Office, and NAVSEA Headquarters to develop and publicize the sources sought announcement and the solicitation.
- 9 Assist in the solicitation evaluation process. Use the NAVSEA-developed selection criteria in selecting lease recipients. Those that will have the best value for the Navy should be selected.
- 10 Coordinate with NAVFAC and the Environmental and Safety Office to ensure that a NEPA determination (either None Required, Categorical Exclusion, Environmental Assessment, or Environmental Impact Study) has been completed before the lease is signed.
- 11 Work with the lessee to facilitate building alterations, utility connections, and coordination of other services. Assist the lessee in working with federal, state, and local government agencies to complete the required consultations and other negotiations.

RADIOLOGICAL CONTROL OFFICE

- 1 Review the Historical Radiological Assessment (HRA) for each building or facility proposed to be leased to determine the past uses of the various areas.
- 2 Verify that the information in the HRA is consistent and review each building and area to determine its current use and sample/survey requirements. Note that generating Technical Work Documents, conducting surveys, and collecting/counting samples can require considerable time and effort.
- 3 Develop a method to ensure that all lessee and sublease employees obtain the required radiological indoctrination and refresher training on a yearly basis.

ENVIRONMENTAL AND SAFETY OFFICE

- 1 Familiarize the outleasing team with the process, content, and format required for an EBS, FOSL, NEPA determination (either None Required, Categorical Exclusion, Environmental Assessment, or Environmental Impact Study), and a FONSI.
- 2 Review the list of candidate properties for lease and adjacent areas to determine if any Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) sites (Installation Restoration sites) may be involved.
- 3 Review the list of candidate properties for lease to determine if any are located within an ordnance/explosives arc.
- 4 Develop a process for the exchange of information between the activity's Environmental and Safety Office, the NAVSEA Office of Environmental Protection, Occupational Safety and Health, and the lessee or lessee's contractor.
- 5 Determine if an in-house contractor and/or Reservist support will be used for development of the EBS and appropriate NEPA documentation. Obtain the appropriate support.
- 6 Develop documentation for the EBS and EA: Locate and compile historical and current information for development of the EBS and appropriate NEPA documentation. Supply this information to the contractor, and assist the contractor, as needed in completing the EBS and appropriate NEPA documentation. Review the EBS/FOSL and NEPA determination to ensure all information is accurate; and in the case of the NEPA determination, make sure that only appropriate content is included (e.g., not all information in the EBS should be included in the EA).
- 7 Coordinate with the lessee to determine which permits the lessee is responsible for obtaining and whether the lessee will "piggyback" on the Navy permits (e.g., removal of asbestos containing materials from lease buildings). If lessee operations will be included on Navy permits, coordinate with SEA 00T, the regulators, and the lessee to agree on responsibilities and repercussions for non-compliance.

- 8 Oversee regulator relations, including notifications, coordination of document submittals, site visits, and response to comments/questions.
- 9 Initiate and coordinate environmental actions, such as tank removals, sampling, or RCRA site closure.
- 10 Coordinate with NAVSEA Headquarters to establish a plan to monitor lessee compliance with environmental lease provisions.

SECURITY AND LAW ENFORCEMENT

- 1 Coordinate with the NAVSEA Office of Security and Law Enforcement (SEA 09T) to develop a Security Island Plan. Consultation with the Nuclear Propulsion Directorate (SEA 08) is also required for installations that maintain NNPI. The installation may also elect to invite representatives from PNS, Norfolk Naval Shipyard, Newport News, and/or Puget Sound Naval Shipyard for an assist visit.
- 2 Develop a consolidation and relocation strategy that attempts to keep the number of Security Islands to a minimum (e.g., using lockable containers in a space rather than creating a Security Island). Consider the impacts of changing locations for various codes due to relocation from outleasing. Coordinate the consolidation and relocation plan with the Facilities and Maintenance Department, as needed.
- 3 Designate one person to develop and communicate the Security Island concept specifics to the installation. This is especially important because the Security Island design is a new concept with respect to protection of sensitive technical information.
- 4 Develop a program for training the entire existing workforce about the Security Island concept, and the additional responsibilities of all employees to enforce security.
- 5 Assess the physical upgrades required to maintain security while outleasing (e.g., fencing, locks). Identify the source of funding for these upgrades.
- 6 Determine security requirements and changes in existing procedures for dual use areas.
- 7 Establish responsibilities for the lessee regarding security (e.g., issuing badges and vehicle decals for employees, and the costs for these).
- 8 Ensure that arrangements are made for the lessee's employees to receive required security training.
- 9 Establish a procedure to deal with how visitors for the lessee will access the installation.
- 10 Develop an agreement with the lessee on how response to theft or violence in the workplace will be addressed.

FIRE DEPARTMENT

- 1 Ensure that all fire protection and emergency medical services are addressed adequately in the draft lease. This should occur before negotiations begin with any potential lessees. The lessee will typically be responsible for bringing any leased buildings up to code. Assist the lessee with bringing building up to code, as needed. Facilitate negotiations with the appropriate NAVFAC EFD/EFA Fire Protection Branch, as necessary.
- 2 Establish a procedure for the lessee to report hazardous material inventories for use by the spill response team (Fire Department). Coordinate with the installation's materials supply department.
- 3 Develop an agreement with the lessee on how to respond to fires or spills involving hazardous material.
- 4 Establish a procedure with the lessee for routine Fire Department preventive inspections, as needed.

CULTURAL RESOURCES PROGRAMS

- 1 Review the candidate lease properties to determine if any are on the National Register of Historical Places.
- 2 Assess the archeological potential of the proposed outlease sites as required by the National Historic Preservation Act. Note this is usually a time-consuming process.
- 3 Conduct a walk-through survey of all buildings available for lease to identify items of historical significance. Consult with the Naval Curator, as necessary, to determine proper disposal methods for items of historical significance, and whether items or representatives of items (if there is more than one of the same item) should be salvaged. Clarify to the lessee that all salvaged items are Government property. Ensure that salvage rights are clearly written into the lease.
- 4 Determine the effects leasing could have on the historical significance of the buildings or facilities under consideration. Note that this is also important for shared facilities. Document the existing condition of the property.
- 5 Research state and federal requirements and the historical status of each building in preparation for modifications to the building or area.
- 6 Provide input to the lease to reflect the extent of modification that can be done to any building, facility, or areas under consideration for outleasing that are on the National Register.
- 7 Obtain concurrence with state and federal agencies on how historical issues regarding National Register properties are to be handled.

- 8 Ensure that the full impact of the historical significance and environmental issues for all potential leasing areas are completely understood by all interested parties at the beginning of the process, including responsibility for consultation and remediation costs.
- 9 Assist the lessee with meeting all consultation requirements, such as Section 106 requirements, with federal, state, and local agencies.

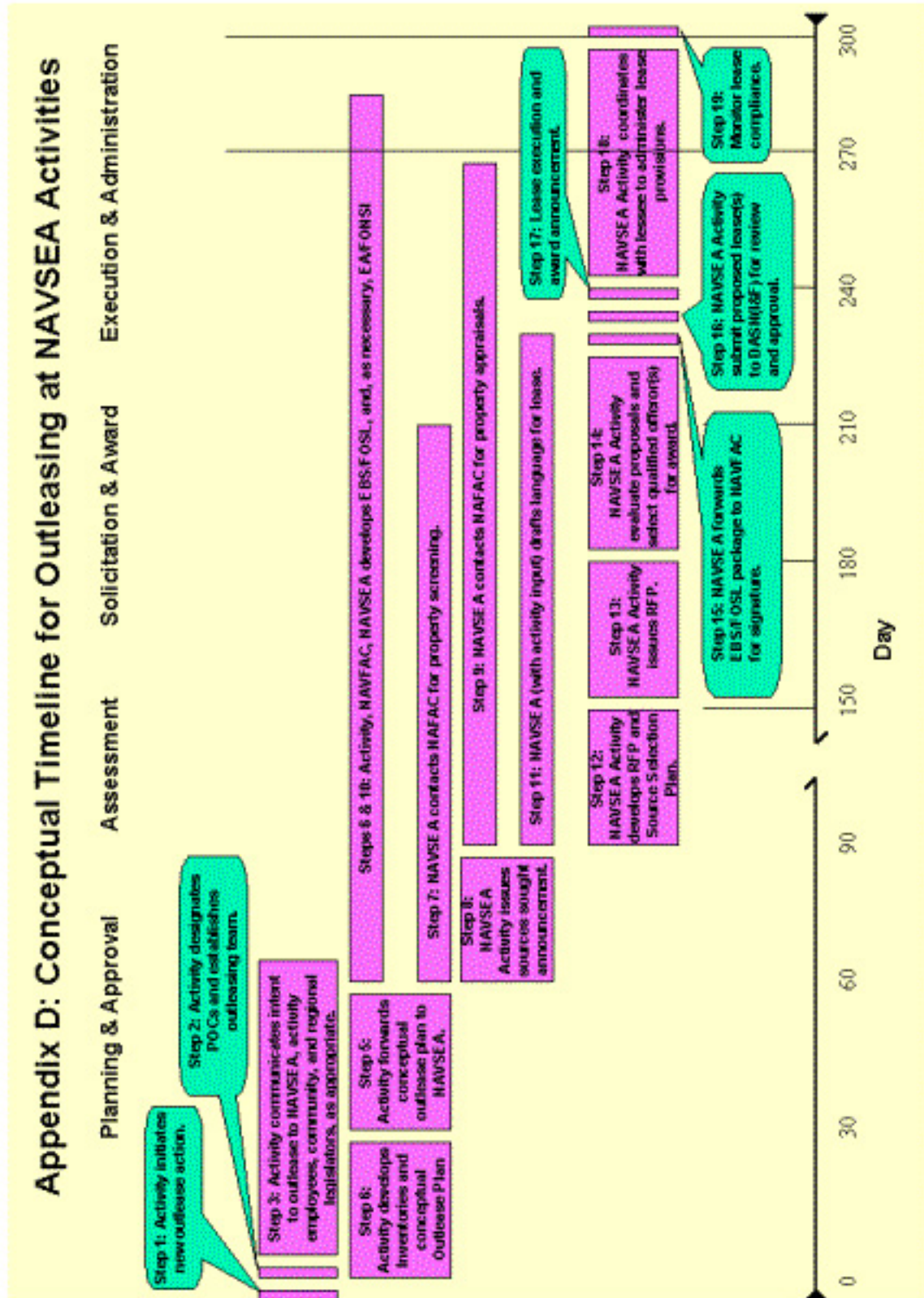
OFFICE OF LEGAL COUNSEL

- 1 Research interpretation of existing outleasing laws that fit the situation being proposed.
- 2 Prepare information to answer any congressional or state inquiries.
- 3 Start screening as early as possible other facility uses such as McKinney Act, DoD, and federal agencies.
- 4 Coordinate with the NAVSEA Office of Legal Counsel to develop the lease provisions. Ensure that all appropriate offices have the opportunity to review the draft lease.

APPENDIX D: OUTLEASING TIMELINE

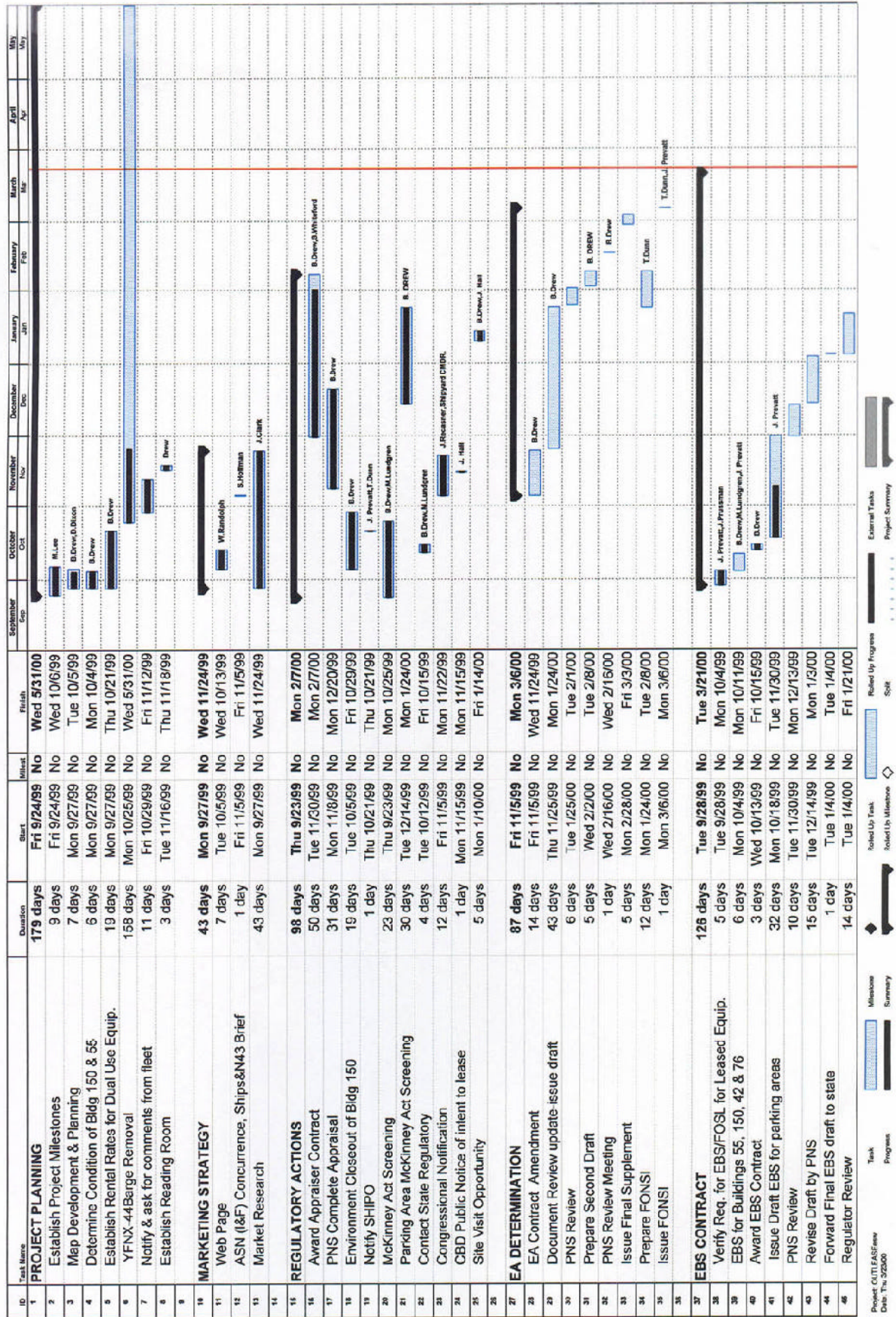
Outleasing at NAVSEA field activities can take several months or more to complete depending on the number, size, and previous use of the properties proposed for lease. However, several of the tasks or steps for outleasing can occur simultaneously to expedite the process. Enclosure 1 includes a conceptual outleasing timeline that presents the nineteen steps and four phases of outleasing outlined in this guidance. An example of the timeline used for the second round of outleasing at Portsmouth Naval Shipyard is contained in Enclosure 2. This timeline is represented in a Gantt chart that shows major tasks, sub tasks, task leaders, and task duration. This format is also useful for tracking the progress toward completion of the outleasing effort. Activities may want to consider placing their timelines in a similar format for submittal to NAVSEA.

ENCLOSURE 1: CONCEPTUAL TIMELINE FOR OUTLEASING AT NAVSEA ACTIVITIES



ENCLOSURE 2: SAMPLE TIMELINE FROM PORTSMOUTH NAVAL SHIPYARD

SAMPLE TIMELINE - PORTSMOUTH OUTLEASING



THU 3/23/00 10:02 AM

ID	Task Name	Duration	Start	Finish	Month	Year
46	Receive State comments on draft EBS	1 day	Mon 1/24/00	Mon 1/24/00	Jan	2000
47	Coordinate EBS Comments	16 days	Tue 1/25/00	Tue 2/15/00	Jan	2000
48	Release Final EBS	1 day	Wed 2/16/00	Wed 2/16/00	Feb	2000
49	NAVFAC FOSL	25 days	Wed 2/16/00	Tue 3/21/00	Feb	2000
50						
51	SOLICITATION	96 days	Mon 10/4/99	Mon 2/14/00	Oct	1999
52	OOT's Position on Env. Req. for Sol. Bidders	7 days	Mon 10/4/99	Tue 10/12/99	Oct	1999
53	Solicitation Open	45 days	Tue 12/14/99	Mon 2/14/00	Dec	1999
54	Interested Parties Questions/Site Visit Opportunities	5 days	Mon 1/10/00	Fri 1/14/00	Jan	2000
55	Establish bid review team	1 day	Tue 1/25/00	Tue 1/25/00	Jan	2000
56	Solicitation Close	1 day	Mon 2/14/00	Mon 2/14/00	Feb	2000
57						
58	PROPOSAL REVIEW	42 days	Mon 2/21/00	Tue 4/18/00	Mar	2000
59	Bid team review proposals	4 days	Mon 2/21/00	Thu 2/24/00	Mar	2000
60	Select Best Proposal	3 days	Mon 3/6/00	Wed 3/8/00	Mar	2000
61	Negotiate with Leasee(s)	25 days	Tue 3/14/00	Mon 4/17/00	Mar	2000
62	Sign Lease	1 day	Tue 4/18/00	Tue 4/18/00	Apr	2000



APPENDIX E:

SAMPLE PLAN FOR INFORMATION COLLECTION FOR DEVELOPING THE ENVIRONMENTAL BASELINE SURVEY

A framework for data collection has been developed by Portsmouth Naval Shipyard to assist in gathering, obtaining, and organizing information for development of the Environmental Baseline Survey (EBS) and NEPA documentation. A plan based on this framework is provided here as a guide for other activities involved with preparing environmental documentation pursuant to outleasing.

A review of records is the first step in the process for developing an EBS. Information collected as part of the records review may include:

- Maps and A&E drawings/contracts of the activity showing building layouts, storage tank locations, storm sewers locations, etc.
- Hazardous Waste Management Plans, Spill Prevention Countermeasure and Control (SPCC) plans, Cultural Resources Management Plans (old HARP), Integrated Natural Resources Management Plans (INRMP), and other base comprehensive plans.
- Installation Restoration Program studies, or other CERCLA, RCRA, and SDWA assessment data.
- Environmental impact analysis documents.
- Industrial hygiene reports, Environmental Compliance Assessments, and management programs for asbestos, PCBs, radon, and lead-based paint.
- Current and discontinued permits pertaining to environmentally regulated activities, such as air emissions, wastewater discharges, and hazardous waste management.
- Applicable agency reports, notices of violation or non-compliance, and environmental incident reports (e.g., spill reports).
- Public works historical records.
- Archived historical reports, plans, and photographs.
- Aerial photographs.

PNS developed Building, Structure, and Site Category Sheets to summarize and categorize information gathered through the records review. The worksheets are organized by facility, even though many important environmental records cross facility boundaries, because the EBS was developed to support outleasing of specific facilities. The worksheets include the building/facility number, title and current/past uses, and indication of whether or not the building is still standing. Buildings/facilities are broken out by the following categories (Note: These categories may require modification to suit specific activities):

Exclusion: facilities administratively withdrawn from continued consideration.

Heavy Industry: facilities where continuous quantities of a product are manufactured, where a large quantity of waste material has been generated, or where significant concern exists about the use of hazardous materials and petroleum products.

Light Industry: facilities where waste is generated only intermittently, or is considered non-hazardous.

Storage: storage only, no industrial activities.

Lodging: living quarters or day care only.

Other Buildings: buildings not fitting the above categories (e.g., hospital).

Structures: facilities open to weather or not easily accessible for human entry.

Sites: facilities consisting principally of land area (e.g., ball fields).

Facilities can be placed in the category that reflects their current usage, and previous uses can be indicated following the current use. The dates associated with the different building uses should be included. For example, if a building is currently used for storage, but in the past contained heavy industry, the building would be categorized by its current use (storage), and then its previous uses would be listed below, that is, “storage” 1968-current; “heavy industry” 1950-1967. Alternatively, activities may elect to categorize buildings by their first use (e.g., “heavy industry” in this example). In this manner a chronological history of the building can be created. It should be noted that these categories are not intended to correspond to relative hazard categories; this categorization begins the EBS process. It is only upon completion of the EBS that relative risk can be determined. A copy of the Building, Structure, and Category Sheet is included as Table 1.

A more detailed historical file for each facility can also be created based on the records review. As each area of inquiry is covered, documentation should be collected and organized. PNS included information pertaining to the following “descriptors” in their facility files:

Category

Building number

Title and current/past uses (chronological history of property use)

Current condition of property (e.g., still standing/demolished)

Historic significance: Indicates whether the property is listed, or eligible for listing, on the National Register of Historic Places, as a Historic Landmark, or located within a Historic District.

Archeological significance: Indicates potential for archeological remains on or near the property. *Note:* at PNS, no attempt was actually made to verify the presence/absence of archeological remains for the purpose of this exercise. Due to the expense of making these evaluations, activities may elect to wait until there is potential for the property to be leased before making a determination.

Built on fill: Indicates whether facilities were built on fill material. *Note:* at PNS, no attempt was actually made to verify the presence/absence of fill material for the purpose of this exercise.

Inactive IR site: Indicates whether the facilities are located on or adjacent to an inactive Installation Restoration site.

Asbestos, lead-based paint, PCBs: Indicates the presence or *confirmed* absence of asbestos-containing materials, lead-based paint, and PCBs.

UST/AST: Indicates whether underground or aboveground storage tanks are located on the property.

Potable water and heat: Indicates whether heat and potable water are available on-site.

A sheet should be included at the front of the file that indicates which “descriptors” have been completed, how and by whom this was accomplished, and the location of any reference materials (if not included in the file). This file and the documents it contains can then be used to prepare the EBS.

PNS has also created a checklist for visual/physical inspections for EBSs. This checklist is included in Table 2.

TABLE 1: BUILDING, STRUCTURE, AND SITE CATEGORY SHEET[illegible]

TABLE 2: ENVIRONMENTAL BASELINE SURVEY CHECKLIST FOR VISUAL/PHYSICAL INSPECTIONS

GENERAL SITE SETTING

Visually inspect the property and any structures located on the property to the extent they are not obstructed by bodies of water, adjacent buildings, or other obstacles. Walk the periphery of the property as well as the periphery of each structure, and observe the property from all adjacent public thoroughfares. If roads or paths with no apparent outlet are observed on the property, the use of the road or path should be identified to determine whether it was likely to have been used as an avenue for disposal of hazardous substances or petroleum products. Travel the length of each such road and note any areas that may have been used for waste disposal.

Current Use(s) of the Property:

Identify current uses likely to involve the use, treatment, storage, disposal, or generation of hazardous substances or petroleum products. Note any unoccupied spaces.

Past Use(s) of the Property:

Identify past uses likely to involve the use, treatment, storage, disposal, or generation of hazardous substances or petroleum products. (Check for signs or structures indicating a past use.)

Geologic, Hydrogeologic, and Topographic Conditions:

Describe the geologic, hydrogeologic, and topographic conditions of the property, including soil types, presence of waterbodies and drainage areas, the topographic gradient (slope) of the property, and any unusual features.

General Description of Structures:

Number of Buildings: _____
Number of Stories Each: _____
Approximate Age of Buildings: _____
Ancillary Structures: _____

Miscellaneous Information:

Thoroughfares:

Identify public thoroughfares transecting or adjoining the property, such as roads, rail transport, recreational paths (e.g., biking/jogging trails), and parking facilities.

Potable Water Supply:

Identify the potable water supply source for the property.

Sewage Disposal System:

Identify the sewage disposal system for the property. Note the age of the system.

Storm Drains:

Identify the location of all storm drains on the property.

Access Vaults:

Identify all access vaults occurring on the property.

Adjacent Property:

Obtain consent to access adjacent property. If consent is not given, perform the inspection from outside of the property boundaries. Identify any indications of environmental conditions that could give rise to environmental concerns on the property for which the EBS is being performed (e.g., through migration or other transport of petroleum or hazardous substances).

Current and Past Uses of the Surrounding Area:

Indicate the observed probable current or past uses (e.g., residential, commercial, industrial) of the adjacent properties. Note if these uses are indicative of recognized environmental conditions in connection with the property for which the EBS is being performed.

EXTERIOR OBSERVATIONS**Pits, Ponds, or Lagoons:**

Identify all pits, ponds, and lagoons, and further describe if they have been used in connection with waste disposal or waste treatment. Also identify any pits, ponds, or lagoons on adjoining properties if they are observed from the property being surveyed.

Stained Soil or Pavement:

Identify and describe areas of stained soil or pavement.

Stressed Vegetation:

Identify areas of stressed vegetation (except in cases where the stress is likely due to insufficient water).

Solid Waste:

Identify and describe any areas that look like they have been filled or graded by unnatural causes (or filled by fill of unknown origin), suggesting trash or other solid waste disposal. Identify and describe any mounds or depressions suggesting trash or other solid waste disposal.

Wastewater:

Identify and describe any wastewater or other aqueous discharges into a drains, ditches, or natural waterbodies on or adjacent to the property.

Wells:

Identify and describe any active or abandoned wells on the property (e.g., dry wells, irrigation wells, injection wells, potable water wells).

Septic Systems:

Describe any indications of on-site septic systems or cesspools.

INTERIOR/EXTERIOR OBSERVATIONS FOR BUILDINGS/STRUCTURES

Address the following items for each building or structure on the property.

Current Use(s) of the Building/Structure:

Identify current uses likely to involve the use, treatment, storage, disposal, or generation of hazardous substances or petroleum products. Note occupied and unoccupied spaces.

Past Use(s) of the Building/Structure:

Identify past uses likely to involve the use, treatment, storage, disposal, or generation of hazardous substances or petroleum products. (Check for signs or structures indicating a past use.)

Hazardous Substances and Petroleum Products in Connection with Identified Uses:

Aboveground Storage Tanks:

Aboveground Tanks: _____
Contents: _____
Capacity: _____
Age: _____

Miscellaneous Information:

Underground Storage Tanks:

Aboveground Tanks: _____
Contents: _____
Capacity: _____
Age: _____

Miscellaneous Information:

Odors:

Note any strong, pungent, or noxious odors.

Pools of Liquid:

Note standing surface water. Note pools or sumps containing liquids likely to be hazardous substances or petroleum products.

Drums:

Identify all drums, whether or not they are leaking.

Size (5 gal., 55 gal., other):

Contents:

Condition:

Age:

Miscellaneous:

Hazardous Substance and Petroleum Products Containers (Not Necessarily in Connection with Identified Uses):

Unidentified Substance Containers:

Describe any open or damaged containers containing unidentified suspected hazardous substances or petroleum products.

Approximate quantities:

Types of containers:

Storage conditions:

PCBs:

Identify electrical or hydraulic equipment known to contain PCBs or likely to contain PCBs. Fluorescent light ballasts likely to contain PCBs *do not* need to be noted.

INTERIOR OBSERVATIONS:**Heating/Cooling:**

Identify the means of heating and cooling the buildings, including the fuel source (e.g., heating oil, gas, electric, etc.).

Strains or Corrosion:

Describe any stains or corrosion on the floors, wall, or ceilings, *except* staining from water.

Drains and Sumps:

Identify all floor drains and sumps. Specifically note floor drains and sumps where a release or suspected release occurred.

Asbestos Containing Materials:

Note all potential asbestos containing materials (ACM), such as acoustical ceiling tile, vinyl asbestos floor tile (9"x9" or 12"x12"), pipe insulation (note outside diameter of pipe), asbestos wire insulation, transite wall board, vibration joints, plaster, linoleum, carpet mastic, roofing material, fire doors.

Note condition of ACM.

Lead Based Paint:

Identify all structures that are painted with potential lead-based paint (e.g., walls, ceilings, floors, etc.).

**APPENDIX F:
POINTS OF CONTACT**

NAVSEA

Logistics, Maintenance and Industrial Operations Directorate (SEA 04)

Telephone: 703.602.4752

Installation and Equipment Office (SEA 04XI)

Telephone: 703.602.4364

Naval Shipyard Management Group (SEA 04X2)

Telephone: 703.602.4756

Office of Legal Counsel (SEA 00L)

Telephone: 703.602.1776

Contracts Program Office (SEA 02)

Telephone: 703.602.6911

Office of Environmental Protection, Occupational Safety and Health (SEA 00T)

Telephone: 703.602.3594

Office of Security and Law Enforcement (SEA 09T)

Telephone: 703.602.3207

Office of Congressional and Public Affairs (SEA 00D)

Telephone: 703.602.1556

Nuclear Propulsion Directorate (SEA 08)

Telephone: 703.602.8645

Naval Ordnance Safety and Security Activity (N71)

Telephone: 301.744.6081

PORTSMOUTH NAVAL SHIPYARD

Business and Strategic Planning Office (Code 1220)

Telephone: 207.438.3934

Facilities and Maintenance Department (Code 912)

Telephone: 207.438.5095

Public Affairs Office (Code 100PAO)

Telephone: 207.438.1525

Environmental and Occupational Safety and Health Office (Code 106)

Telephone: 207.438.1218

Radiological Controls Office (Code 105)

Telephone: 207.438.2730

Fire Department (Code 1740)

Telephone: 207.438.2292

Nuclear Facilities and Equipment Manager (Code 3910N)

Telephone: 207.438.3631

Security and Law Enforcement Office (Code 1720)

Telephone: 207.438.3522

Office of Legal Counsel (Code 100L)

Telephone: 207.438.2880

Cultural Resources Program (Code 100H)

Telephone: 207.438.2320

NAVFAC NORTHDIV

Telephone: 617.595.0567 X138

APPENDIX G: DEFINITIONS & ACRONYMS

DEFINITIONS

Categorical Exclusion. A category of actions that do not have, under normal circumstances, individually or cumulatively, a significant effect on the human environment; or that have been previously found to have no effect as a result of procedures adopted by the Navy for implementing the Council on Environmental Quality (CEQ) regulations. Therefore, these actions require neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS). A list of Navy Categorical Exclusions is included in Chapter 2 of OPNAVINST 5090.1B.

Commerce Business Daily (CBD). Lists notices of proposed government procurement actions, contract awards, sales of government property, and other procurement information. A new edition of the CBD is issued every business day.

Consideration-in-Kind or “In-Kind” Consideration. Maintenance, repair, restoration, and property improvement performed by the lessee that may be accepted by the activity in lieu of rent. Title 10 USC 2667 allows activities to accept “in-kind consideration” services in lieu of rent, provided that the Navy received “fair market rental value” for the property. Such services must be applied to the property that is being leased, unless a substantial portion of the activity is being outleased, in which case the activity may receive approval to transfer in-kind consideration services between properties. It is important to note that there is a distinction between in-kind consideration services and performing the Navy’s work. The lessee cannot perform work that should be completed by the Navy.

Cost-Benefit Analysis. A method of analyzing the costs, benefits, and risks associated with a decision or plan. The cost and/or benefit for each element of a decision or plan is researched, calculated, or estimated (including direct, indirect, financial, and social costs and benefits). The sum of the costs is then compared with the sum of the benefits.

Determinations and Findings (D&F). Justifies a limited-competition leasing action. Navy policy mandates that real property outleases be competed unless there is only one available lessee or leasing to a selected lessee can be fully justified (via execution of a D&F).

Environmental Assessment. A concise public document that: (a) briefly provides sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI); (b) aids Navy compliance with NEPA when no EIS is necessary; and (c) facilitates preparation of an EIS when one is necessary.

Environmental Baseline Survey (EBS). An environmental site assessment that determines the environmental condition of a property, and provides necessary information for determining the suitability to lease. An EBS covers all existing environmental information related to storage, release, treatment, and disposal of hazardous substances and petroleum products. Activities are required to prepare an EBS prior to the lease, transfer, or sale of real property. An EBS is developed to determine whether environmental conditions on the property caused by previous uses trigger environmental notice requirements or present unacceptable risks to the Navy or lessee.

Environmental Impact Statement (EIS). Statements prepared for actions that may have a significant impact on the quality of the human environment or that are potentially controversial in environmental effects. EISs are filed with the Environmental Protection Agency (EPA) and distributed to cognizant federal, state, local, and private individuals for review and comment. An EIS requires a comprehensive analysis of anticipated impacts to the environment.

Fair Market Rental Value. Commercial rental value of government-owned property, as determined by an independent appraisal.

Finding of No Significant Impact (FONSI). A document in which the Navy briefly presents the reasons why an action not otherwise categorically excluded, will not have a significant effect on the human environment, and for which an Environmental Impact Statement (EIS) will not need to be prepared.

Finding of Suitability to Lease (FOSL) or Transfer (FOST). The process for determining whether property is environmentally suitable for its intended use, and whether there should be any environmental restrictions on the use of the property. Findings from the Environmental Baseline Survey and Environmental Assessment are incorporated into the FOSL.

Integrated Cultural Resources Management Plan (ICRMP). Navy installations are required to implement an ICRMP that identifies the area of probability for National Register resources, and contains an evaluation and inventory of all known historic and archeological resources on Navy lands and water, or resources that are eligible for listing on the National Register. The plan also prescribes specific compliance actions to be taken if Navy undertakings affect National Register resources.

Integrated Natural Resources Management Plan (INRMP). A 5-year planning document to guide the activity's management of natural resources to support the installation mission, while protecting and enhancing installation resources for multiple use, sustainable yield, and biological integrity.

Infrastructure Management Plan. A plan developed by an activity that outlines the goals and process for consolidating equipment, employees, and work lines, and identifying buildings and facilities available for lease.

Irrevocable Letter of Credit. A letter obtained by the lessee from a financial institution and provided to the Navy as insurance that the Navy will receive payment of rent in the event the lessee does not meet its normal minimum maintenance expenditure amount.

Non-Excess Underutilized Facilities and Capacity. Denotes facilities that are currently used at levels below their full capacity but that remain essential to the Navy's military mission, as defined in 10 USC 2667.

Outgranting. The term "outgrant" refers to the complete set of lease, license, use agreement, or service contract mechanisms that may be applied to allow use of Navy real property by private and governmental entities.

Outlease. A written agreement by which the Navy acting as lessor grants to another (the lessee) the right to possess, use, and enjoy certain real property for a specified period of time in exchange for a specified consideration. The lease spells out the terms and conditions restricting the use of the property.

Outlease Plan. Identifies all property that may be suitable for leasing in the near term or at some future date. The Outlease Plan should include, at a minimum, the name of the activity, activity point of contact, identification for each building or area that may be leased, square footage of each building or area, current and prior uses, personal property to be furnished with each building, type of area (e.g., dry docks, warehouse, admin offices), availability (e.g., immediate or future), restrictions or conditions, and whether an EBS/FOSL has been completed, or will be completed for each building or area.

Plant Property Classes. The Comptroller of the Navy (NAVCOMPT) lists the following classes of plant property:

Class 1: Land

Class 2: Buildings, structures, and utilities

Class 3: Equipment (other than industrial plant equipment)

Class 4: Industrial Plant Equipment

Public Affairs Plan. A plan to inform and educate internal and external audiences about the Navy's plans to lease non-excess underutilized facilities to non-federal users. The plan outlines the goals, assumptions, execution, and reporting requirements necessary for communicating with internal and external audiences, and includes the appropriate notification to Congress, news releases, and pre-formulated answers for anticipated media inquiries.

Request for Proposals. *See Solicitation.*

Security Island. An area where access to classified information and sensitive technical unclassified information by unauthorized personnel is precluded. An island can be, but is not limited to, a building, office space, fenced area, drydock, pier, or trailer.

Security Island Plan. A plan outlining the policy and procedures for a field activity's Security Island concepts. Implementation of a Security Island Plan should preclude disclosure of classified information and sensitive technical unclassified information to unauthorized personnel, while allowing the activity to utilize a facility more cost-effectively.

Shared Possession or Shared Use. Allows the lessee exclusive possession and use of a facility or equipment for a certain time period, while the Navy is also using the facility or equipment. Shared possession can be allocated in numerous ways, e.g., certain times of the day, particular times of the week, or specified weeks/months during the year. An advantage of shared use is that the Navy can impose upon the lessee full responsibility and accountability for security, safety, environmental compliance, maintenance, and liability of the lease premises.

Solicitation. Publicizes the leasing opportunity at a field activity. A site-specific request for proposals to lease non-excess underutilized facilities and capacity from non-federal users. ASN must grant approval before the solicitation can be advertised.

Source Selection Plan. A plan that describes how the Navy will evaluate proposals to ensure all bidders are treated equally when deciding an award. The plan should be fair, clear, and defensible if an award is protested.

Sources Sought Announcement. An optional announcement prior to the solicitation that publicizes the leasing opportunity at a field activity to determine the level of interest in leasing specific buildings. If enough interest is generated, the field activity proceeds with the outleasing process. The process of issuing a sources sought announcement also provides a good opportunity for the Navy to clarify the requirements and restrictions associated with leasing from the Navy, and to screen out incompatible proposals. ASN must grant approval before the solicitation can be advertised.

ACRONYMS

ACHP	Advisory Council on Historic Preservation
ACM	Asbestos Containing Material
A/E	Architectural and Engineering
ARPA	Archeological Resources Protection Act
ASN	Assistant Secretary of the Navy
ASN (I&E)	Assistant Secretary of the Navy (Installations and Environment)
ASN (RDA)	Assistant Secretary of the Navy (Research, Development and Acquisition)
AST	Aboveground Storage Tank
BRAC	Base Realignment and Closure
CBD	Commerce Business Daily
CDR	Covenants and Deed Restrictions
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response Compensation Liability Act
CERFA	Community Environmental Response Facilitation Act
CE	Categorical Exclusion
CFR	Code of Federal Regulations
CIA	Controlled Industrial Area
CNO	Chief of Naval Operations (N45)
CO	Commanding Officer
CRS	Cultural Resources Survey
DASN (I&F)	Deputy Assistant Secretary of the Navy (Installations and Facilities)
D&F	Determination & Findings
DoD	Department of Defense
DON	Department of the Navy
DRMO	Defense Reutilization & Marketing Office
EA	Environmental Assessment
EBS	Environmental Baseline Survey
EFA	Engineering Field Activity
EFD	Engineering Field Division
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
FONSI	Finding of No Significant Impact
FOSL	Finding of Suitability to Lease
FOST	Finding of Suitability to Transfer
HARP	Historical Archeological Restoration Program
HAZMAT	Hazardous Materials
HUD	Department of Housing and Urban Development
ICRMP	Integrated Cultural Resources Management Plan
INRMP	Integrated Natural Resources Management Plan
IR	Installation Restoration
NAVCOMPT	Comptroller of the Navy
NAVSEA	Naval Sea Systems Command
NAVFAC	Naval Facilities Engineering Command
NEPA	National Environmental Policy Act
NFPA	National Fire Protection Association

NHPA National Historic Preservation Act
 NHPO National Historic Preservation Officer
 NNPI Naval Nuclear Propulsion Information
 NPDES National Pollutant Discharge Elimination System
 NPL National Priorities List
 OESO Ordnance Environmental Support Office
 OLA Office of Legislative Affairs (Pentagon)
 OPNAV Office of the Chief of Naval Operations
 OPNAVINST Office of the Chief of Naval Operations Instruction
 OSHA Occupational Safety and Health Administration
 OSHE Occupational Safety, Health and Environment
 PAO Public Affairs Office
 PCB Polychlorinated Biphenyl
 PNS Portsmouth Naval Shipyard
 POC Point of Contact
 PNSY Portsmouth Naval Shipyard
 RCRA Resource Conservation and Recovery Act
 RFP Request for Proposals
 SEA 02 NAVSEA Contract Program Office
 SEA 04 NAVSEA Logistics, Maintenance and Industrial Operations Support Directorate
 SEA 04XI NAVSEA Installation and Equipment Office
 SEA 08 NAVSEA Nuclear Propulsion Directorate
 SEA09T NAVSEA Office of Security and Law Enforcement
 SEA 00D NAVSEA Office of Congressional and Public Affairs
 SEA 00L NAVSEA Office of Legal Counsel
 SEA 00T NAVSEA Office of Environmental Protection, Occupational Safety and Health
 SECNAV Secretary of the Navy
 SECNAVINST Secretary of the Navy Instruction
 SHPO State Historic Preservation Officer
 USC United States Code
 UST Underground Storage Tank